

# **ARTHUR TOWNSHIP ZONING ORDINANCE**

**Arthur Township  
Kanabec County, Minnesota**

**REVISED EDITION 2010**

## TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
1	Title and Application .....	1
2	Definition of Terms .....	4
3	Zoning District Provisions .....	16
4	(A-R) Agricultural-Residential District .....	18
5	(RR) Rural Residential District .....	22
6	(B-1) Retail and Service Business District .....	27
7	(B-2) General Business District .....	31
8	(A-T) Agricultural-Transitional District .....	36
9	(S) Shoreland District .....	39
10	Planned Unit Development (PUD) .....	59
11	Building Requirements .....	63
12	Yard and Lot Area Requirements .....	68
13	Off-Street Parking and Loading .....	70
14	General Provisions .....	76
15	Town Road Right Of Ways .....	81
16	Utilities within Road Right of Ways .....	91
17	Sign Regulations .....	100
18	Towers and Antennas .....	111
19	Adult Uses .....	119
20	Nonconforming Buildings, Structures, Uses & Lots .....	121
21	Home Occupations/Home Based Businesses .....	124
22	Commercial Mining .....	126
23	Conditional Use Permits .....	133
24	Interim Use Permits .....	139
25	Variances .....	140
26	Appeals .....	143
27	Board of Appeals and Adjustments .....	144
28	Administration and Enforcement .....	145
29	Amendments .....	147
30	Fees .....	150
31	Penalties and Violations .....	153
32	Date of Effect .....	154

# ARTHUR TOWNSHIP ZONING ORDINANCE

The Board of Supervisors of Arthur Township ordains: An ordinance regulating the use of land; the location, size, height, bulk, and use of buildings; the arrangement of buildings on lots, the size of yards and other open spaces, the density of population, and the use of land and buildings for residence, trade, industry, recreation, and other activities by establishing zoning districts, standards, and procedures regulating such uses to help promote the public health, safety, and general welfare in Arthur Township, Kanabec County, Minnesota.

The Board of Supervisor of the Town of Arthur ordains:

## SECTION 1

### TITLE AND APPLICATION

**Subd. 1. Title and Authority.** This Ordinance shall be known as the “Arthur Township Zoning Ordinance”, except as referred to herein, where it shall be known as this “Ordinance.” This Ordinance is adopted pursuant to the Town Board’s authority under Minnesota Statutes, sections 462.351 to 462.364 and such other law as may apply. This Ordinance does not rely on the authority provided in Minnesota Statutes, sections 366.10 to 366.181 and the procedures and requirements of those sections do not apply to this Ordinance.

**Subd. 2. Intent and Purpose.** The intent of this Ordinance is to protect the public health, safety and general welfare of Arthur Township and its people through the establishment of minimum regulations governing land development and use. This Ordinance shall divide the Town into zoning districts and establish regulations with respect to location, erection, construction, placement, reconstruction, alteration and use of structures and land. Such regulations are established to: provide convenience of access to property to prevent congestion in the public right-of-way; to prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards and density of population; to provide for compatibility of different land uses; to provide for administration of this Ordinance; to provide for amendments; to prescribe penalties for violation of such regulations; and to define powers and duties of the Town staff, the Planning Commission, the Board of Appeals and Adjustments, and the Town Board of Supervisors in relation to this Ordinance.

**Subd. 3. Relation to Comprehensive Plan.** It is the policy of Arthur Township that the enforcement, amendment, and administration of this Ordinance be accomplished with due consideration of the recommendations contained in the Town’s Comprehensive Plan.

**Subd. 4. Prior Zoning Ordinances.** This Ordinance supersedes and replaces all previous zoning ordinances adopted by the Town Board and all such previous zoning ordinances are hereby repealed, except for Ordinance #3. Ordinance #3 adopted by the own Board in 1999 shall remain in effect to the extent its provisions do not directly conflict with the provisions of this Ordinance and shall be applied in the context of this Ordinance. References in Ordinance #3 to the AO District shall now be to the AR District and references to section 18 shall now be to

Section 23. The repeal of the Town's previous zoning ordinances does not itself affect the status of any use, structure or lot that was not in conformance with the earlier ordinances.

**Subd. 5. Compliance.** No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose or in any manner which is not in conformity with this Ordinance.

**Subd. 6. Minimum Requirements and Strictness.** In their interpretation and application, the provisions of this Ordinance shall be held to the minimum requirements for the promotion of the public health, safety and welfare. Where the standards, regulations, or requirements imposed by any provision of this Ordinance are either more or less restrictive than comparable conditions imposed by other ordinance, rule or regulation of the Town, County, State, or Federal Government, the statute, ordinance, rule or regulation which imposes the more restrictive condition standard, regulation, or requirements shall prevail. In the event of any conflict between this Ordinance with any private restrictions, protections and covenants, the provisions of this Ordinance shall be met.

**Subd. 7. Uses Not Provided for Within Zoning Districts.** Whenever in any zoning district a use is not specifically allowed as a permitted, conditional, or interim, the use shall be considered prohibited. In such case the Planning Commission, on its own initiative or upon request, may conduct a study to determine if the use is acceptable, what zoning district would be most appropriate, and the determination as to conditions and standards relating to development of the use. The Planning Commission, Town Board or property owner may, if appropriate, initiate an amendment to the Zoning Ordinance to provide for the particular use under consideration, or may find that the use is not compatible and therefore not allowed within the Town.

**Subd. 8. Separability.** It is hereby declared to be the intention of Arthur Township that the several provisions of this Ordinance are separable in accordance with the following:

- A. If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provision of this Ordinance not specifically included in said judgment.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of the Ordinance to a particular property, building, or structure, such judgment shall not affect the application of said provisions to any other property, building, or structure not specifically included in said judgment.

**Subd. 9. Applications.** All applications submitted pursuant to this Ordinance shall be on the Town's official forms. The submission of a zoning related request in any other form or manner shall not be considered a valid application for any purpose, including Minnesota Statutes, section 15.99, and shall not be processed or considered.

**Subd. 10. Certify Taxes Paid.** Any application for a zoning request related to property on which there are delinquent property taxes, special assessments, penalties, interest, or past due utility fees shall not be considered complete and shall not be processed until the owner certifies to the Town, with adequate supporting documentation, that all such delinquent or past due amounts, interest, and penalties have been paid in full.

**Subd. 11. Rules.** The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

- A. The singular number includes the plural, and the plural the singular;
- B. The present tense includes the past and the future tenses, and the future the present;
- C. The words “shall” and “must” are mandatory while the word “may” is permissive;
- D. The masculine gender includes the feminine and neuter; and
- E. The word “and” means all conditions must be met. The word “or” means either of the two (or several) must be met.

## **SECTION 2**

### **DEFINITION OF TERMS**

The following words and terms wherever they occur in this Ordinance, shall have the meaning given them in this Section.

**Subd. 1. Accessory Building or Use.** A subordinate building, structure or use which is located on the same lot on which the main building or use is situated and is reasonably necessary and incidental to the conduct of the primary or principal use of such building or main use.

**Subd. 2. Agricultural Uses.** Those uses commonly associated with the growing of crops, produce and raising of livestock on farms. These uses include: field crop farming; pastures; the production of hay, the growing of fruits and vegetables and other produce; tree, plant, shrub or flower nurseries that do not include buildings or greenhouses; truck gardening; temporary roadside produce stands in season; and livestock raising and feeding. Agricultural uses do not include the raising of fur-bearing animals.

**Subd. 3. Agricultural Building.** A structure on agricultural land designated, constructed and used to house farm implements, livestock, or agricultural produce or products used by the owner, lessee or sub lessee of the building and members of their immediate families, their employees, and persons engaged in the pick up or delivery of agricultural produce or products.

**Subd. 4. Alley.** A public right-of-way which affords secondary access to abutting property.

**Subd. 5. Animal, Non-Domestic.** An animal commonly considered to be naturally wild and not naturally trained or domesticated or which are commonly considered to be inherently dangerous to public health, safety, and welfare. The term includes:

- A. A member of the large cat family (family *felidae*) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.
- B. A naturally wild member of the canine family (family *canidae*) including wolves, coyotes, dingoes and jackals, but excluding commonly accepted domesticated dogs.
- C. A crossbreed such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.
- D. A member or relative of the rodent family including skunks, raccoons or squirrels but excluding those members otherwise defined or commonly accepted as domesticated house pets.
- E. A poisonous, venomous, constricting or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.
- F. Any other animal not listed above but which can be reasonably included in the in the definitions in this subdivision including, but not limited to, bears, deer, monkeys and game fish.

**Subd. 6. Animal Unit.** A unit of measure that determines the number of livestock or traditional farm animals that are allowed or permitted on certain parcels. The number of animal units attributable to each type of animal shall be determined as set forth in Minnesota Rule, part 7020.0300, subpart 5.

**Subd. 7. Auto Salvage Yard.** Any place where four or more vehicles not in running condition or not licensed, or parts thereof are stored in the open; or any land, building or structure used for commercial wrecking or storing of such motor vehicles or parts thereof; and including any commercial salvaging and scavenging of any other goods, articles, merchandise, or structures.

**Subd. 8. Antenna.** Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including, but not limited to, directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

**Subd. 9. Basement.** A portion of a building located partially underground but having more than one-half of its floor to ceiling height below the average ground level.

**Subd. 10. Bluff.** A topographic feature such as a hill, cliff or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance of 50 feet or more shall not be considered part of the bluff):

- A. Part or all of the feature is located in a shoreland area;
- B. The slope rises at least 25 feet above the ordinary high water level of the waterbody;
- C. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water levels averages 30 percent or greater; and
- D. The slope drains toward the waterbody.

**Subd. 11. Bluff Impact Zone.** The bluff and land located within 20 feet from the top of a bluff.

**Subd. 12. Bluffline.** A line along the top of a slope connecting the points at which the slope becomes less than 13 percent. This applies to those slopes within the zoning district which are beyond the setback requirements from the ordinary high water level.

**Subd. 13. Buildable.** The land area occurring within the property lines of a parcel or lot, excluding drainage ways, flood plains, all land below the ordinary high water level of public waters and wetlands as defined in Minnesota Statutes, section 103G.005 and slopes 30 percent or greater.

**Subd. 14. Building.** Any structure used or intended for supporting or sheltering any use or occupancy.

**Subd. 15. Building Height.** The vertical distance between the highest adjoining ground level at the building or 10 feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

**Subd. 16. Building Line.** That line measured across the width of the lot at the point where the main structure is placed in accordance with setback provisions.

**Subd. 16A. Building Official.** A person hired by the Town Board to issue building permits and inspect building projects following all state building codes, laws and ordinances and their enforcement.

**Subd. 17. Building Setback.** The minimum horizontal distance between the building and the specified lot line as prescribed in this Ordinance.

**Subd. 18. Campground.** An area that contains campsites or camping spurs for tent, trailer or recreational vehicle camping.

**Subd. 19. Channel.** A natural or artificial depression of perceptible extent, with a definite bed and back to confine and conduct water either continuously or periodically.

**Subd. 20. Club.** A non-profit association of persons whose bona fide members use a premises that is restricted to members and their guests. It shall be permissible to serve food and meals on such premises providing adequate dining room space and kitchen facilities are available.

**Subd. 21. Commercial Use.** The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

**Subd. 22. Commercial Recreation.** A bowling alley, go-cart track, golf course, pool hall, dance hall, skating rink, swimming pool, theater, boat rental, arcade, amusement park, campground, deer park and similar uses for which fees are charged for admission or use of the facility, but which will generally not disrupt the general quietude or lessen the use and enjoyment of adjacent property owners. Shooting ranges and club or commercial hunting preserves are not considered as commercial recreation.

**Subd. 23. Conditional Use.** A land use or development as defined by this Ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in this Ordinance exist, the use or development conforms to the Comprehensive Plan and the use is compatible with the existing neighborhood.

**Subd. 24. Conditional Use Permit.** A permit issued by the Town Board in accordance with procedures specified in this Ordinance, as well as its compatibility with the Comprehensive Plan, as a flexibility device to enable the Board to assign conditions to a proposed use after consideration of adjacent uses and their functions and the special problems which the proposed use presents.

**Subd. 25. Deck.** A horizontal, unenclosed outdoor platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending no more than 30 feet above ground.

**Subd. 26. District.** A section or sections of the Town for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted herein.

**Subd. 27. Diversion.** A channel that intercepts surface water runoff and that changes the accustomed course of all or part of a stream.

**Subd. 28. Dwelling or Dwelling Unit.** A building or portion thereof, designated exclusively for residential occupancy, including one-family, two-family and multiple-family dwellings, seasonal dwellings, manufactured housing, but not including hotels, motels, bed and breakfasts, nursing homes and boarding houses.

**Subd. 29. Dwelling Site.** A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.



**Subd. 30. Dwelling, Single Family.** A detached dwelling unit designed for occupancy of only one family.

**Subd. 31. Earth Sheltered Building.** A building constructed so that more than 50 percent of its exterior surface area, excluding the garage and other accessory buildings, is covered with earth. A partially completed building shall not be considered to be an earth sheltered building.

**Subd. 32. Essential Services.** Underground or overhead gas, electrical, steam or water distribution systems; collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants or other similar equipment and accessories in conjunction therewith; but not including buildings or transmission services.

**Subd. 33. Family.** An individual or two or more persons related by blood, marriage or adoption or a group of not more than five unrelated persons living together on the premises as a single housekeeping unit.

**Subd. 34. Farm.** A tract of land which is principally used for commercial agriculture, all of which is owned or operated by an individual, a family or a farm corporation.

**Subd. 35. Feedlot.** A lot or building, or combination of contiguous lots and buildings intended for the confined breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of this subdivision, open lots used for feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots.

**Subd. 36. Fence.** A barrier forming a boundary to, or enclosing an outdoor area.

**Subd. 37. Floor Area.** The sum of the gross horizontal area of all of the floors of the building, measured from the exterior faces of the exterior walls.

**Subd. 38. Forest Management.** The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding or occurrence of flora or fauna in need of special protection.

**Subd. 39. Forestry.** The management, logging of a forest, woodland, or plantation, and related research and educational activities, including the construction, alteration or maintenance of wood-roads, skid-roads, landings and fences.

**Subd. 40. Garage, Private.** An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families residing upon the premises, and in which no business service or industry is carried on; provided that not more than one-half of the space may be rented for the private vehicles of

persons not residing on the premises, except that all the space in a garage of one or two car capacity may be rented.

**Subd. 41. Guest Cottage.** A detached permanent accessory structure that is subordinate and incidental to the main house which is to be used without compensation by guests of the occupants of the main house. Guest cottages must not exceed 640 square feet in floor area. They must not contain a kitchen, wet bar or any provision for appliances for the storage or preparation of food.

**Subd. 42. Hardship – Undue.** The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to the property not created by the landowner. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of this Ordinance.

**Subd. 43. Height - Building.** The vertical distance between the highest adjoining ground level at the building or 10 feet above the lowest ground level, whichever is lower, and the highest point of flat roof or average height of the highest gable of a pitched or hipped roof.

**Subd. 44. Home Occupation/Home Based Business.** Any occupation or profession carried on by a member(s) of the family residing on the premises, provided that the use is clearly incidental and secondary to the main use of the premises for dwelling purposes and does not change the character thereof.

**Subd. 45. Home Occupation – Class A.** A home occupation as described in Section 21, subdivision 2 of this Ordinance.

**Subd. 46. Home Occupation – Class B.** A home occupation as described in Section 21, subdivision 3 of this Ordinance.

**Subd. 47. Impervious Surface.** An artificial or natural surface through which water, air, or roots cannot penetrate or any area shaded so that natural vegetation cannot be maintained.

**Subd. 48. Individual Sewage Treatment System.** A septic tank and soil absorption system or other individual or cluster type sewage treatment system.

**Subd. 49. Industrial Use.** The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.

**Subd. 50. Intensive Vegetation Clearing.** The complete removal of trees or shrubs in a contiguous patch, strip, row or block.

**Subd. 51. Kennel.** Any place where three or more dogs, cats or other domesticated pets over six months of age are boarded, bred, or offered for sale, with the exception of veterinary clinics.

**Subd. 52. Land Reclamation.** The reclaiming of land by the deposit of materials so as to elevate the grade.

**Subd. 52A. Lineal Descendant.** A blood or legally adopted relative in the direct line of descent.

**Subd. 53. Lot.** A parcel of land designated by plat, metes and bounds, registered land survey, auditor's plot, or other accepted means which is separated from other parcels or portions by said description for the purpose of sale, lease, or separation thereof, and to be occupied by one principal building or use and its accessory buildings, together with such open spaces as are required under the provisions of this Ordinance.

**Subd. 54. Lot Area.** The area of a horizontal plane with the lot lines.

**Subd. 55. Lot Line.** A property boundary line of any lot held in single or separated ownership, except that where any portion of the lot extends into the abutting road, the lot line shall be deemed to be the edge of the road right-of-way.

**Subd. 56. Lot of Record.** A parcel of land, whether subdivided or otherwise legally described of record as of the effective date of this Ordinance.

**Subd. 57. Lot Width.** The shortest horizontal distance between the side lot lines measured at the right angles at the building line and front lot line (road frontage).

**Subd. 58. Manufacturing.** Uses which involve the compounding, processing, packaging, treatment, or assembly of products and materials.

**Subd. 59. Mining Operation – Commercial.** The removal of the land and sale of 300 cubic yards or more of stone, sand, gravel, coal, salt, iron, copper, nickel, granite, peat, petroleum products or other material for commercial, industrial, or governmental purposes.

**Subd. 60. Mixed Use Development.** A development that has commercial uses on the ground floor and residential units located above the commercial uses. The total amount of residential use must not to exceed 100 percent of the gross commercial area of the development.

**Subd. 61. Natural Drainage.** All land surface areas which by nature of their contour configuration, collect, store, and channel surface water run-off.

**Subd. 62. Natural Obstruction.** Any rock, tree, gravel or analogous natural matter that is an obstruction and has been located within a waterbody, watercourse, or wetland by non-human cause.

**Subd. 63. Nonconforming Lot.** A lot or parcel lawfully established and of record in the county recorder's office prior to the adoption of an otherwise applicable zoning regulation which does not satisfy the minimum dimensional requirements imposed by the newly adopted or amended regulation.

**Subd. 64. Nonconforming Structure, Use, or Lot.** Any structure, use, or lot which on the effective date of this Ordinance does not, even though lawfully established, conform to the applicable conditions if the structure or use were to be erected or established under the requirements of this Ordinance.

**Subd. 65. Obstruction.** Any dam, wall, wharf, embankment, levee, dike, pike, abutment, projection, excavation, culvert, building or wire, which is in, along, across, or projects into any channel, watercourse, or regulatory flood hazard area which obstructs the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream and damage life or property.

**Subd. 66. Ordinary High Water Level.** The boundary of public waters and wetlands which is an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominately aquatic to predominately terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

**Subd. 67. Parking Space.** An area of not less than nine feet in width and 19 feet in length, enclosed in a main building, in an accessory building, or unenclosed, sufficient in size to store one automobile which has adequate access to a public road and permits ingress and egress of an automobile.

**Subd. 68. Permitted Use.** A use which may be lawfully established in a particular zoning district or districts, provided it conforms with all requirements, regulations and performance standards (if any) of such district.

**Subd. 69. Planned Unit Development.** A type of development characterized by a unified site design for a number of building units or building sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, increased density, or a mix of structure types and land uses.

**Subd. 70. Planning Commission.** The planning agency of the Town, members of which are to be appointed by the Town Board.

**Subd. 71. Principal Use.** The primary or main use of land or buildings as distinguished from subordinate, incidental or accessory uses.

**Subd. 72. Privacy Fence.** A fence that creates at least a 50 percent obstructed view.

**Subd. 73. Protected Water.** Any body of water or wetland designated by the Minnesota Department of Natural Resources and identified by statute on the Protected Waters Inventory.

**Subd. 74. Public Road.** For the purpose of this Ordinance, public roads shall include only those roads which are owned by the Town, County, state, or federal government, or are dedicated for public use, including roads established through statutory user.

**Subd. 75. Public Uses.** Uses owned or operated by a municipality, school district, town, county, state, federal or other governmental unit.

**Subd. 76. Public Waters.** Any waters as defined in Minnesota Statutes, section 103G.006, subdivisions 15 and 18.

**Subd. 76A. Raingardens.** A planted depression that allows rainwater runoff from impervious urban areas like roofs, driveways, walkways and compacted lawn areas the opportunity to be absorbed.

**Subd. 77. Religious Institution.** A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

**Subd. 77A. Reptiles.** Air-breathing, cold-blooded animal whose skin is usually covered with scales or a bony plate or shell.

**Subd. 78. Riparian.** Pertaining to when a lot or parcel has frontage on a river, stream or lake.

**Subd. 79. Road Frontage.** The proximity of a parcel of land to one or more public roads. An interior lot has one road frontage and a corner lot has two road frontages.

**Subd. 80. Sensitive Resource Management.** The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

**Subd. 81. Semi-Public Use.** The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

**Subd. 82. Senior Housing.** Housing specifically designed for and occupied by persons: 1) who are 62 or older; or 2) houses at least one person who is 55 or older in at least 80 percent of the occupied units and adheres to a policy that demonstrates intent to house persons who are 55 and or older.

**Subd. 83. Setback.** The minimum horizontal distance between a structure, sewage treatments system or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line or other facility.

**Subd. 84. Sewage Treatment System.** A septic tank and soil absorption system or other individual or cluster type sewage treatment system.

**Subd. 85. Sewer System.** Pipelines or conduits, pumping stations and force mains and all other construction, devices, appliances or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal or treatment.

**Subd. 86. Shore Impact Zone.** The land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

**Subd. 87. Shoreland.** Land located within the following distances from a public water: (i) land within 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and (ii) land within 300 feet from a river or stream or the landward extent of a floodplain delineated by ordinance on the river or stream, whichever is greater. The limits of a shoreland may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner of the Department of Natural Resources.

**Subd. 88. Sign.** Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of an advertisement, announcement, message, or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

**Subd. 89. Sign, Display Surface Area.** The entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double-faced or V-type sign structure will be used in computing total display surface area. If the angle between the display surfaces of such a sign exceeds 10 degrees, the total area of both display surfaces shall be added together to compute the total display surface area.

**Subd. 90. Sign, Freestanding.** A sign supported by one or more upright poles, columns, or braces placed in or on the ground and not attached to any building or structure.

**Subd. 91. Sign, Off Premises.** A commercial speech sign which directs the attention of the public to do business not on the same lot or site where such a sign is located.

**Subd. 92. Sign, Window.** A sign attached to, placed upon or painted on the interior of a window that is visible from the exterior of the building, including signs that are placed on the backs of shelving units or similar structures or interior walls where the sign is located less than seven feet from the window's surface.

**Subd. 93. Significant Historic Site.** Any archaeological site, standing structure, or other property that meets the criteria for eligibility for the National Register of Historic Places or is

determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08.

**Subd. 94. Steep Slope.** Land where agricultural activity or development is either not recommended or is described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

**Subd. 95. Subdivision.** Any land which is divided or proposed to be divided into two or more lots, parcels, tracts, sites, units or interests for the purpose of offer, sale or lease. Subdivision includes resubdivision.

**Subd. 96. Surface Water-Oriented Commercial Use.** The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts and restaurants with transient docking facilities are examples of such use.

**Subd. 97. Structure.** Anything which is built, constructed or erected on the ground or attached to the ground, an edifice or building of any kind, or any piece of work artificially built up or composed of parts jointed together in some definite manner whether temporary or permanent in character, including decks and signs.

**Subd. 98. Toe of the Bluff.** The lower point of a 50 foot segment with an average slope exceeding 18 percent.

**Subd. 99. Top of the Bluff.** Top of the Bluff means the higher point of a 50 foot segment with an average slope exceeding 18 percent.

**Subd. 100. Tower.** Any ground or roof mounted pole, spire, structure, or combinations thereof taller than 15 feet, including supporting lines, cables, wires, braces and masts, intended primarily for the purpose of mounting an antenna, meteorological device or similar apparatus above grade.

**Subd. 101. Use.** The purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained, and which includes the performance of such activity as defined by the performance standards of this Ordinance.

**Subd. 102. Usable Open Space.** A required ground area or terrace area on a lot which is graded, developed, landscaped and equipped and intended and maintained for either active or passive recreation which is available and accessible to and usable by all persons occupying a dwelling unit on the lot and their guests. Such areas shall contain turf, landscaping, or a covered area if it is used exclusively for a recreational purpose. Roofs, driveways and parking areas shall not constitute usable open space.

**Subd. 103. Variance.** The waiving action of the literal provisions of the Ordinance in instances where strict enforcement would cause undue hardship because of physical circumstances unique to the individual property under consideration.

**Subd. 104. Water-Oriented Accessory Structure or Facility.** A small, above-ground building or other improvement, except stairways, fences, docks and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses and pump houses.

**Subd. 105. Waters, Waterways.** All public waters as defined by Minnesota Statutes, section 103G.005, subdivision 15, and shall also include all bodies of water, natural or artificial, including ponds, streams, lakes, swamps and ditches which are a part of or contribute to the collection, runoff or storage of water within the Town or directly or indirectly effect the collection, transportation, storage or disposal of the storm and surface water system in the Town.

**Subd. 106. Wetland.** A land that is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, in order for a land to be considered a “wetland,” it must have all of the following characteristics: (i) a predominance of hydric soils; (ii) be inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophilic vegetation typically adapted for life in saturated soil conditions; and (iii) under normal circumstances, support a prevalence of hydrophilic vegetation.

**Subd. 107. Yard.** An open space on the lot which does not contain buildings. A yard extends along a lot line 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.

**Subd. 108. Yard – Front.** A yard extending across the front of the lot between the side lot lines and lying between the front line of the lot and the nearest line of the building.

**Subd. 109. Yard – Rear.** A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

**Subd. 110. Yard – Side.** A yard between the side line of the lot and the nearest line of the building and extending from the front yard of the lot to the rear yard.

**Subd. 111. Zoning Administrator.** A person hired by the Town Board to administer and enforce this Ordinance.

**Subd. 112. Zoning Map.** The maps or map incorporated into this Ordinance as part thereof, and as amended, designating the zoning districts.



## SECTION 3

### ZONING DISTRICT PROVISIONS

**Subd. 1. Establishment of Districts.** The following zoning districts are hereby established within the Town:

- A-R Agricultural-Residential District
- RR Rural Residential District
- B-1 Retail and Service Business District
- B-2 General Business District
- A-T Agricultural-Transitional District
- S Shoreland District

**Subd. 2. Map.** The location and boundaries of the zoning districts established by this Ordinance are hereby set forth on the zoning map entitled “Zoning Map,” a copy of which is on file with the Zoning Administrator. Said Zoning Map and all of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this Ordinance by reference.

**Subd. 3. Annexation and Detachment.** In the event of changes in the Town boundaries where territory is removed from the Town or added to the Town, zoning district boundaries shall be construed as moving with the Town’s boundaries.

**Subd. 4. Zoning District Boundaries.**

- A. Boundaries indicated on the Zoning Map as approximately following the center lines of streets, highways, alleys, or railroad lines shall be construed to follow such center lines.
- B. Boundaries indicated on the Zoning Map as approximately following lot lines shall be construed as following such lot lines.
- C. Boundaries indicated on the Zoning Map as following shorelines shall be construed to follow such shorelines, and in the event of a change in the shoreline, the boundary shall be construed as moving with the actual shoreline.
- D. Boundaries indicated on the Zoning Map as approximately following the center lines of streams, rivers, lakes or other bodies of water shall be construed to follow such center lines.
- E. Boundaries indicated on the Zoning Map as approximately following the section lines shall be construed as following such lines.
- E. Where a zoning district boundary line divides a lot which was in a single ownership at the time of passage of this Ordinance, the property owner may request that zoning

district be extended. The request must be reviewed by the Zoning Administrator, the Planning Commission and determined by the Town Board.

- F. The exact location of all zoning district boundaries will be interpreted by the Zoning Administrator, subject to appeal as provided in Section 27 of this Ordinance.

**Subd. 5. Zoning District Regulations.** The regulations of this Ordinance within each zoning district shall be minimum regulations, and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

- A. No building, structure, or land shall hereafter be used or occupied, except in conformity with all of the regulations herein specified for the zoning district in which it is located.
- B. No building or other structure shall hereafter be erected, placed or altered to exceed the height or bulk, to accommodate or house a use, to occupy a greater percentage of lot area or to have narrower or smaller yards other than herein required, or in any other manner contrary to the provisions of this Ordinance.
- C. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance must meet at least the minimum requirements established by this Ordinance.
- D. No lot established after the adoption of this Ordinance shall be considered buildable unless it contains a sufficient area of high ground (at least 12” above the periodic high water level) to reasonably accommodate a residence, garage, driveway, yard, and two suitable locations for a septic system.

## SECTION 4

### (A-R) AGRICULTURAL – RESIDENTIAL DISTRICT

**Subd. 1. Purpose.** The Agricultural-Residential District is intended to provide a zoning district which will allow suitable areas of the Town to be retained and utilized in agricultural and residential uses, prevent scattered non-farm uses from developing improperly, promote orderly development, and secure economy in government expenditures for public utilities and services.

**Subd. 2. Density Requirements.**

- A. Lots with Frontage on an Existing Public Road. There must be at least 300 feet of frontage on an existing public road for each dwelling.
- B. Lots without Public Road Frontage. There must be at least 66 feet of frontage on an existing public road for each dwelling or the dwelling must have access to an existing

public road via an easement that is not less than 66 feet in width, which is subject to the approval of the Town Board.

**Subd. 3. Permitted Uses.** The following uses are permitted in the Agricultural-Residential District:

- A. Agricultural uses and buildings, subject to the following limitations:
  - 1. On parcels that are five acres or greater, but less than 10 acres, the number of animal units shall be limited to not more than three.
  - 2. On parcels that are two acres or greater but less than five acres, the number of animal units shall be limited to one.
  - 3. On parcels that are less than two acres, the number of animal units shall be limited to less than one. The animals must not include any swine, cows, horses or animals of a similar size.
- B. Feedlots, provided that they are located not less than 500 feet from any existing non-farm dwelling and not less than 250 feet from any property line.
- C. Greenhouse or nursery buildings.
- D. Forestry.
- E. Parks owned or operated by a government agency or nonprofit organization, including wildlife areas, forest preserves and other open space, but not including shooting ranges or club or commercial hunting preserves.
- F. Single family dwellings, provided new non-farm dwellings are located not less than 500 feet from an existing feedlot.
- G. Temporary or seasonal roadside stands for the sale of agricultural products.

**Subd. 4. Conditional Uses.** The following uses may be permitted upon the issuance of a conditional use permit by the Town Board:

- A. Commercial recreation, subject to the performance standards set forth in Section 7, subdivision 10 of this Ordinance.
- B. Religious institutions.
- C. Cemeteries.
- D. Government or club building.

- E. Clustered residential developments where a greater density of residential dwelling units is permitted in a quarter/quarter section in exchange for a lesser density of residential dwelling units in a contiguous quarter/quarter section, subject to the following requirements:
  - 1. The total number of density units that may be reallocated to a property shall be no more than two times the total number of dwelling units permitted for the property pursuant to the density requirements of this zoning district. A maximum of eight dwelling units may be reallocated to any one quarter/quarter section for a total maximum of 12 lots within a clustered residential development.
  - 2. Reallocation of density units can only occur between contiguous quarter/quarter sections which are owned by the same parties;
  - 3. Density units can be reallocated only to the extent that the quarter/quarter section from which they are being reallocated to meets all of the requirements for the development that are set forth by this Ordinance;
  - 4. Density units can be only reallocated to a quarter/quarter section which fronts an existing public road;
  - 5. Clustered residential developments provided for in this Section must be platted in accordance with the requirements of the Town of Arthur Subdivision Ordinance.
- F. Permanent farm worker residences (the lot must be at least 10 acres).
- G. Class A home occupations as described in Section 21, subdivision 2 of this Ordinance.

**Subd. 5. Interim Uses.** The following uses may be permitted upon the issuance of an interim use permit by the Town Board:

- A. Commercial mining.
- B. Sanitary landfills and solid waste processing and recovery facilities.
- C. Kennels (the lot must be at least 10 acres).
- D. Fur-bearing animal production (the lot must be at least 10 acres).
- E. Temporary farm worker housing units (the lot must be at least 10 acres).
- F. Temporary housing units during the construction of a permanent dwelling.
- G. Temporary housing units for lineal descendants of the property owner.
- H. Class B Home occupations as described in Section 21, subdivision 3 of this Ordinance.

**Subd. 6. Accessory Uses.** The following uses are permitted accessory uses:

- A. Any structure or use which is incidental to the permitted principal use including garages, sheds, fencing, and landscaping.
- B. Recreational facilities which serve the residents of the principal use.
- C. Operation and storage of vehicles, equipment and machinery which is incidental to the permitted principal use. There shall be no exterior storage of construction equipment or materials on a residential lot other than on a temporary basis for the purpose of construction activities being conducted on the lot.
- D. Off-street parking areas and the parking of vehicles.
- E. Essential services.

**Subd. 7. Lot Requirements.**

- A. Minimum Lot Area. A lot area of not less than two acres is required, of which an area of at least one contiguous acre, or the area necessary to support the principal and accessory structures, whichever is the larger, is determined to be buildable.
- B. Lot Width. A lot width of not less than 300 feet at the building line and front lot line is required.

**Subd. 8. Front, Side and Rear Yard Requirements.**

- A. Front Yard. A front yard is required and must not be less than the following distances between the center line of the right-of-way and the building line:
  - 1. Buildings located on state trunk highways must be set back at least 135 feet from centerline of the road.
  - 2. Buildings located on county or county state-aid highways must be set back at least 110 feet from centerline of the road.
  - 3. Buildings located on Town or other municipal roads, including unimproved platted or dedicated roads must be set back at least 110 feet from the centerline of road.
  - 4. In no case shall a building be set back less than 110 feet from the centerline of the road.

- B. Side Yard. Two side yards are required. Each side yard must have a width of not less than 20 feet.
- C. Rear Yard. A rear yard is required and the principal building must not be less than 50 feet from the rear lot line.

**Subd. 9. Maximum Building Height.** All building heights shall not exceed 35 feet except as exempted in Section 11, subdivision 3 of this Ordinance.

## SECTION 5

### (RR) RURAL RESIDENTIAL DISTRICT

**Subd. 1. Purpose.** The Rural Residential District is to provide for a suburban residential expansion area that will accommodate medium density residential development in areas of existing residential development in close proximity to the City of Mora; allow for short-term orderly growth and expansion of the greater Mora community; and allow for the efficient extension of municipal services in the foreseeable future.

**Subd. 2. Permitted Uses.** The following uses are permitted in the Rural Residential District:

- A. Agricultural uses and buildings, subject to the following limitations:
  - 1. No agricultural buildings are permitted on lots less than 10 acres.
  - 2. On parcels that are five acres or greater, but less than 10 acres, the number of animal units shall be limited to not more than three.
  - 3. On parcels that are two acres or greater but less than five acres, the number of animal units shall be limited to one.
  - 4. On parcels that are less than two acres, the number of animal units shall be limited to less than one. The animals must not include any swine, cows, horses or animals of a similar size.
- B. Greenhouse or nursery buildings.
- C. Forestry.
- D. Parks owned or operated by a government agency or nonprofit organization, including wildlife areas, forest preserves and other open space, but not including shooting ranges or club or commercial hunting preserves.
- E. Single and two-family dwellings.

**Subd. 3. Conditional Uses.** The following uses may be permitted upon the issuance of a conditional use permit by the Town Board:

- A. Commercial recreation, subject to the performance standards set forth in Section 7, subdivision 10 of this Ordinance.
- B. Religious institutions.
- C. Government or club building.
- D. Cemeteries.
- E. Guest cottages.
- F. Planned unit developments (consisting of dwelling units only).
- G. Public and private schools.
- H. Permanent farm work residences (the lot must be at least 10 acres).
- I. Class A home occupations as described in Section 21, subdivision 2 of this Ordinance.

**Subd. 4. Interim Uses.** The following uses may be permitted upon the issuance of an interim use permit by the Town Board:

- A. Temporary farm worker housing units (the lot must be at least 10 acres).
- B. Temporary housing units during the construction of a permanent dwelling.
- C. A detached living unit when occupied by a lineal descendant of the property owner.
- D. Class B home occupations as described in Section 21, subdivision 3 of this Ordinance.

**Subd. 5. Accessory Uses.** The following uses are permitted accessory uses:

- A. Any structure or use which is incidental to the permitted principal use including garages, sheds, fencing, and landscaping.
- B. Recreational facilities which serve the residents of the principal use.
- C. Operation and storage of vehicles, equipment and machinery which is incidental to the permitted principal use. There shall be no exterior storage of construction equipment or materials on a residential lot other than on a temporary basis for the purpose of construction activities being conducted on the lot.
- D. Off-street parking areas and the parking of vehicles.

E. Essential services.

**Subd. 6. Lot Requirements.**

- A. Minimum Lot Area. The minimum lot area is one acre for properties served by an individual sewage treatment system or a well. The minimum lot area for properties served by municipal water and sewer or community water and sewer is 14,520 square feet.
- B. Lot Width. A lot width of not less than 220 feet at the building line and front lot line is required for properties served by an individual sewage treatment system or well. The minimum lot width for properties served by municipal water and sewer or community water and sewer is 110 feet at the building line and front lot line.

**Subd. 7. Front, Side, and Rear Yard Requirements.**

- A. Front Yard. A front yard is required and a building shall be located not less than the following distance from the centerline of the road:
1. Buildings located on state trunk highways must be set back of at least 135 feet from the centerline of the road.
  2. Buildings located on county or county state-aid highways must be set back at least 110 feet from the centerline of the road.
  3. Buildings located on Town or other municipal roads, including unimproved platted or dedicated roads must be set back at least 110 feet from the centerline of the road.
  4. In no case shall the building setback be less than 110 feet from the centerline of the road.
- B. Side Yard. Two side yards are required. Each side yard must have a width of not less than 10 feet.
- C. Rear Yard. A rear yard is required and the principal building must not be less than 50 feet from the rear lot line.

**Subd. 8. Maximum Building Height.** All principal building heights shall not exceed 35 feet except as exempted in Section 11, subdivision 3 of this Ordinance.

**Subd. 9. Accessory Structure, Building and Use Requirements.** Accessory structures, buildings and uses within this district are subject to the following additional requirements:



- A. Location. No accessory structures or buildings other than terraces, fences, patios, decks or similar structures shall be located in the front yard of a lot and, except in the case of certain non-conforming riparian lots, a garage may be located between the street and principal building upon approval of the Town Board.
- B. Height. Accessory structures or buildings must not exceed 18 feet in height.
- C. Setbacks. Accessory structures and buildings must be set back as follows:
1. Accessory structures and buildings that are greater than 120 square feet in floor area must meet all setback requirements for principal buildings as set forth in this Section.
  2. Accessory structures and buildings that are 120 square feet of floor area or less may be located within 10 feet of a side or rear lot line, except as otherwise regulated within this Ordinance.
  3. Accessory structures and buildings shall not be located in any easement area.
- D. Number of Accessory Buildings.
1. On lots of five acres or less the number of accessory buildings shall be limited as follows:
    - a. In cases where a garage is part of the principal structure, one additional accessory building is allowed provided that the total floor area of the accessory building does not exceed 1,200 square feet or result in a total lot coverage of more than 30 percent, whichever is more restrictive, plus one storage shed of 120 square feet or less in floor area.
    - b. In cases where a garage is not part of the principal structure, two accessory buildings are allowed provided that the total floor area of the accessory buildings do not exceed 1,800 square feet or result in a total lot coverage of more than 30 percent, whichever is more restrictive, plus one storage shed of 120 square feet or less in floor area.
  2. On lots of greater than five acres, the number of accessory buildings shall be limited as follows:
    - a. In cases where a garage is part of the principal structure, one additional accessory building is allowed provided that the total floor area of the accessory building does not exceed 2,400 square feet or result in a total lot coverage of more than 30 percent, whichever is more restrictive, plus one storage shed of 120 square feet or less in floor area.

- b. In cases where a garage is not part of the principal structure, two accessory buildings are allowed provided that the total floor area of the accessory buildings do not exceed 3,200 square feet or result in a total lot coverage of more than 30 percent, whichever is more restrictive, plus one storage shed of 120 square feet or less in floor area.
- E. Building Design Standards. The architectural design and appearance of all accessory buildings and structures in this district shall comply with the following standards:
- 1. The exterior siding of the accessory building must be similar in appearance to that of the principal building on the lot, with the exception of metal storage sheds that have a floor area of 120 square feet or less.
  - 2. The accessory buildings must be securely anchored to the ground in order to prevent uplifting due to wind.

## SECTION 6

### (B-1) RETAIL AND SERVICE BUSINESS DISTRICT

**Subd. 1. Purpose.** The Retail and Service Business District is to provide for certain retail and service business uses which conduct all activities within enclosed buildings except for “drive-in” or “drive-through” facilities, exterior displays of merchandise for sale or rent to the public or off-street parking and loading.

**Subd. 2. Permitted Uses.** There are no permitted uses in this district.

**Subd. 3. Conditional Uses.** The following uses may be permitted upon the issuance of a conditional use permit by the Town Board:

- A. Retail stores, except adult establishments.
- B. Service establishments, except adult establishments.
- C. Office buildings.
- D. Government buildings.
- E. Planned unit developments.
- F. Mixed use developments.
- G. Exterior sale or rental display areas, subject to the requirements set forth in subdivision 9 of this Section.

- H. Joint parking facilities.
- I. Any other commercial use determined by the Town Board to be of the same general character as the permitted or conditional uses within the district which conforms with the purpose and performance standards applicable to the district.

**Subd. 4. Accessory Uses.** The following uses are permitted accessory uses:

- A. Living quarters located in the principal building provided that they do not exceed 750 square feet in area or 30 percent of the gross floor area of the principal structure, whichever is less.
- B. Off-street parking as regulated by Section 13 of this Ordinance.
- C. Off-street loading and loading docks as regulated by Section 13 of this Ordinance.
- D. Essential services.
- E. Garages (both residential and commercial).
- F. Exterior sales or rental display areas, subject to the requirements set forth in subdivision 9 of this Section.

**Subd. 5. Lot Requirements.**

- A. Minimum Lot Area. A lot area of not less than .5 acre is required.
- B. Lot Width. A lot width of not less than 100 feet at the building line and front lot line is required.

**Subd. 6. Front, Side and Rear Yard Requirements.**

- A. Front Yard. Except as otherwise hereinafter provided, all lots in the district shall have a front yard. The front yard must consist of at least 20 feet from the building line to the center line of the right-of-way. All front yards shall be devoted exclusively to landscaping except for necessary or required access drives or sidewalks.
- B. Side Yard. Two side yards are required. Each side yard must have a width of not less than 10 feet.
- C. Rear Yard. A rear yard is required and the principal building must not be less than 15 feet from the rear lot line.

**Subd. 7. Transitional Yard Requirements.** The minimum transitional yard requirements shall not be less than those specified below:

- A. Where a side lot coincides with a side or rear lot line in an adjacent residential zoning district, a transitional yard is required along such side lot line. Such yard shall be not less than the minimum side yard which would be required by this Ordinance for the residential use on the adjacent lot.
- B. Where a rear lot line coincides with a side lot line in an adjacent residential zoning district, a transitional yard is required along such rear lot line. Such yard shall not be less than the minimum side yard which would be required by this Ordinance for the residential use on the adjacent lot.
- C. Where a rear lot line coincides with a rear lot line in an adjacent residential district, a transitional yard is required along such rear lot line. Such yard shall not be less than that of the minimum required for the rear yard which would be required by this Ordinance for the residential use on the adjacent lot.
- D. Where the extension of a front or side lot line coincides with a front lot line of an adjacent lot located in a residential district, a transitional yard not less than the minimum front yard required by this Ordinance for the adjacent residential lot shall be required.

**Subd. 8. Maximum Building Height.** All buildings shall not exceed three stories. Building heights must be less than 45 feet.

**Subd. 9. Exterior Sale or Rental Display Area Requirements.** Exterior sale and rental display areas as a principal or accessory use shall be subject to the following requirements:

- A. Exterior sale or rental as an accessory use to the principal use is limited to 30 percent of the gross floor or ground area of the building that is occupied by the principal use.
- B. Outside display areas must be fenced or screened from view of any abutting residential districts in compliance with subdivision 10 of this Section.
- C. All lighting must be hooded and directed so that the light source is not visible from the public right-of-way or from neighboring residences.
- D. The display area must contain grass or a surface that does not emit dust.
- E. The display area must not take up any parking spaces that are required by this Ordinance.

**Subd. 10. Screening Requirements.** Any required screening must be by a wall, fence or vegetation.

- A. All screening must be at least seven feet in height. Screens of lesser heights may be permitted by the Board of Appeals and Adjustments if there is a finding that the nature or extent of the use being screened is such that a lesser degree of screening will as adequately promote and protect the use and enjoyment of the properties within the district, or there is a finding that a screening of the type required by this Ordinance would

interfere with the provision of adequate amounts of light and air to the property or adjacent properties.

- B. Loading docks in this district shall be screened from adjacent residential district properties.
- C. All required screens must be designed so that they are architecturally harmonious with the principal structure on the site.
- D. All required screens must be properly maintained so as not to become unsightly, hazardous, or less opaque than when originally constructed.

**Subd. 11. Other Performance Standards.** It is the intent of this subdivision to provide that business and related activities shall be established and maintained with a good appearance when viewed from the streets and adjoining properties and to limit their effect on adjoining properties.

- A. Noise. Applicable acceptable noise levels are set forth in Minnesota Rules Chapter 7030.
- B. Odor. No activity or operation shall cause at any time the discharge of toxic, noxious or odorous matter beyond the limits of the immediate site where it is located in such concentrations as to be obnoxious or otherwise detrimental to, or endanger the public health, welfare, comfort or safety.
- C. Glare. Glare, whether direct or reflected, such as from floodlights, spotlights or high temperature processes, and as differentiated from general illumination, must not be visible beyond the site of origin at any property line.
- D. Exterior Lighting. Any light used for exterior illumination shall be directed away from adjacent properties.
- E. Fumes or Gases. Fumes or gases shall not be emitted at any point in concentrations or amounts that are noxious, toxic, or corrosive.
- F. Water Supply. The design and construction of water supply facilities and water supply sources shall be in accordance with local and Minnesota Department of Health standards and requirements.
- G. Waste. All sewage and industrial wastes shall be treated and disposed of in such a manner as to comply with Minnesota Department of Health standards and requirements, Minnesota Pollution Control Agency standards and requirements, and local codes.
- H. Investigations, Tests. In order to assure compliance with the performance standards set forth above, the Town Board may require the owner or operator of any permitted use to make such investigations and tests as may be required to show adherence to the performance standards. The Town may require prior notice of testing, in order to verify

credentials or professional standing of the tester or to arrange for witnessing by a Town official or other designated interested parties.

- I. Additions, Accessory Buildings. All subsequent additions and accessory buildings constructed after the erection of an original building or buildings shall be reviewed by the Planning Commission and approved by the Town Board.

**Subd. 12. Service Road Required.** The Town may require the construction of a service road or the dedication of land to be used as a future service road, or joint accesses in order to provide for access by the public and emergency and fire vehicles and to preserve the functional purpose of the adjacent street or highway.

## SECTION 7

### (B-2) GENERAL BUSINESS DISTRICT

**Subd. 1. Purpose.** The General Business District is to provide for certain retail, service and light manufacturing uses.

**Subd. 2. Permitted Uses.** There are no permitted uses in this district.

**Subd. 3. Conditional Uses.** The following uses may be permitted upon the issuance of a conditional use permit by the Town Board:

- A. Retail stores and adult establishments.
- B. Service establishments, except adult establishments.
- C. Office buildings.
- D. Light manufacturing.
- E. Warehousing.
- F. Wholesaling.
- G. Exterior service or sale and rental display areas, subject to the requirements set forth in subdivision 10 of this Section.
- H. Exterior manufacturing, service and storage, subject to the requirements set forth in subdivision 11 of this Section.
- I. Joint parking facilities.

- J. Any other commercial or industrial use determined by the Town Board to be of the same general character as the permitted or conditional uses within the district which conform with the purpose and performance standards applicable to this district.

**Subd. 4. Interim Uses.** The following uses may be permitted upon the issuance of an interim use permit by the Town Board:

- A. Auto salvage yards.

**Subd. 5. Accessory Uses.** The following uses are permitted accessory uses:

- A. Living quarters located in the principal building provided that they do not exceed 750 square feet in area or 30 percent of the gross floor area of the principal structure, whichever is less.
- B. Off-street parking as regulated by Section 13 of this Ordinance.
- C. Off-street loading and loading docks as regulated by Section 13 of this Ordinance.
- D. Essential services.
- E. Exterior sales or rental display areas, subject to the requirements set forth in subdivision 10 of this Section.
- F. Exterior manufacturing, service and storage, subject to the requirements set forth in subdivision 11 of this Section.

**Subd. 6. Lot Requirements.**

- A. Minimum Lot Area. A lot area of not less than one acre is required.
- B. Lot Width. A lot width of not less than 125 feet at the building line and front lot line is required.

**Subd. 7. Front, Side and Rear Yard Requirements.**

- A. Front Yard. Except as otherwise hereinafter provided, all lots in the district shall have a front yard. The front yard must consist of at least 20 feet from the building line to the center line of the road. All front yards shall be devoted exclusively to landscaping except for necessary or required access drives or sidewalks. When off-street parking is required by this Ordinance and must occur in the front yard area, there must be at least 12 feet of landscaping between the street and the parking area.
- B. Side Yard. Two side yards are required. Each side yard must have a width of not less than 10 feet.

- C. Rear Yard. A rear yard is required and the principal building must not be less than 15 feet from the rear lot line.

**Subd. 8. Transitional Yard Requirements.** The minimum transitional yard requirements shall not be less than those specified below:

- A. Where a side lot coincides with a side or rear lot line in an adjacent residential zoning district, a transitional yard is required along such side lot line. Such yard shall be not less than the minimum side yard which would be required by this Ordinance for the residential use on the adjacent lot.
- B. Where a rear lot line coincides with a side lot line in an adjacent residential zoning district, a transitional yard is required along such rear lot line. Such yard shall not be less than the minimum side yard which would be required by this Ordinance for the residential use on the adjacent lot.
- C. Where a rear lot line coincides with a rear lot line in an adjacent residential zoning district, a transitional yard is required along such rear lot line. Such yard shall not be less than that of the minimum required for the rear yard which would be required by this Ordinance for a residential use on the adjacent lot.
- D. Where the extension of a front or side lot line coincides with a front lot line of an adjacent lot located in a residential zoning district, a transitional yard not less than the minimum front yard required by this Ordinance for the adjacent residential lot shall be required.

**Subd. 9. Maximum Building Height.** All buildings shall not exceed three stories. Building heights must be less than 45 feet.

**Subd. 10. Exterior Sales or Rental Display Area Requirements.** Exterior sales or rental display areas as a principal or accessory use shall be subject to the following requirements:

- A. Exterior sales or rental display areas as an accessory use to the principal use is limited to 30 percent of the gross floor or ground area that is occupied by the principal use.
- B. Outside sales and rental display areas must be fenced or screened from view of any abutting residential districts in compliance with subdivision 12 of this Section.
- C. All lighting must be hooded and directed so that the light source is not visible from the public right-of-way or from neighboring residences.
- D. The display area must contain grass or a surface that does not emit dust.
- E. The display area must not take up any parking spaces that are required by this Ordinance.



**Subd. 11. Exterior Manufacturing, Service and Storage Requirements.** Exterior manufacturing, service and storage as a principal or accessory use shall be subject to the following requirements:

- A. Exterior manufacturing, service and storage as an accessory use to the principal use is limited to 30 percent of the gross floor or ground area of the building that is occupied by the principal use.
- B. The area must be fenced and screened from view of adjacent residential properties and public roads in compliance with subdivision 12 of this Section.
- C. The area must contain grass or a surface that does not emit dust.
- D. All lighting must be hooded and directed so that the light source is not visible from the public right-of-way or from neighboring residences.
- E. The area must not take up parking spaces that are required by this Ordinance.

**Subd. 12. Screening Requirements.** Any required screening must be by wall, fence or vegetation and comply with this subdivision.

- A. All screening must be at least seven feet in height. Screens of lesser heights may be permitted by the Board of Appeals and Adjustments if there is a finding that the nature or extent of the use being screened is such that a lesser degree of screening will as adequately promote and protect the use and enjoyment of the properties within the district, or there is a finding that a screening of the type required by this Ordinance would interfere with the provision of adequate amounts of light and air to the property or adjacent properties.
- B. Any unenclosed storage, manufacturing or assembly occurring within the district must be screened as set forth in this subdivision.
- C. Loading docks in this district shall be screened from adjacent residential properties.
- D. All required screens shall be designed to that they are architecturally harmonious with the principal structure on the site.
- E. All required screens shall be properly maintained so as not to become unsightly, hazardous, or less opaque than when originally constructed.

**Subd. 13. Other Performance Standards.** It is the intent of this subdivision to provide that business and related activities shall be established and maintained with a good appearance when viewed from streets and adjoining properties and to limit their effect on adjoining properties.

- A. Noise. Applicable acceptable noise levels are set forth in Minnesota Rules, Chapter 7030.

- B. Odor. No activity or operation shall cause at any time the discharge of toxic, noxious or odorous matter beyond the limits of the immediate site where it is located in such concentrations as to be obnoxious or otherwise detrimental to, or endanger the public health, welfare, comfort or safety.
- C. Glare. Glare, whether direct or reflected, such as from floodlights, spotlights or high temperature processes, and as differentiated from general illumination, must not be visible beyond the site of origin at any property line.
- D. Exterior Lighting. Any lights used for exterior illuminations shall be directed away from adjacent properties and hooded or shielded so that the light source is not visible from the public right-of-way or from neighboring residences.
- E. Fumes or Gases. Fumes or gases shall not be emitted at any point in concentrations or amounts that are noxious, toxic, or corrosive.
- F. Water Supply. The design and construction of water supply facilities and water supply sources shall be in accordance with local and Minnesota Department of Health standards and requirements.
- G. Waste. All sewage and industrial wastes shall be treated and disposed in such manner as to comply with Minnesota Department of Health standards and requirements, Minnesota Pollution Control Agency standards and requirements, and local codes.
- H. Investigations, Tests. In order to assure compliance with the performance standards set forth above, the Town Board may require the owner or operator of any permitted use to make such investigations and tests as may be required to show adherence to the performance standards. The Town may require prior notice of testing, in order to verify credentials or professional standing of the tester or to arrange for witnessing by a Town official or other designated interested parties.
- I. Additions, Accessory Buildings. All subsequent additions and accessory buildings constructed after the erection of an original building or buildings shall be reviewed by the Planning Commission and approved by the Town Board.

**Subd. 14. Service Road Required.** The Town may require the construction of a service road or the dedication of land to be used as a future service road, or joint accesses in order to provide for access by the public and emergency and fire vehicles and to preserve the functional purpose of the adjacent street or highway.

## SECTION 8

### (A-T) AGRICULTURAL – TRANSITIONAL DISTRICT

**Subd. 1. Purpose.** The Agricultural-Transitional District is intended to provide a zoning district which will allow suitable areas of the Town to be retained and utilized for agricultural and limited residential uses, promote orderly development, preserve the undeveloped characteristics of the area to allow future transitioning to appropriate uses compatible with the adjacent airport and industrial park, and secure economy in government expenditures for public utilities and services.

**Subd. 2. Density Requirements.**

- A. Lots with Frontage on an Existing Public Road. Require 300 feet on public road.
- B. Lots without Public Road Frontage. Existing parcels or lots of record shall be considered buildable, notwithstanding this density requirement. There must be at least 66 feet of frontage on an existing public road for each dwelling or the dwelling must have access to an existing public road via an easement that is not less than 66 feet in width, which is subject to the approval of the Town Board.

**Subd. 3. Permitted Uses.** The following uses are permitted:

- A. Greenhouse or nursery buildings.
- B. Forestry.
- C. Parks owned or operated by a government agency or nonprofit organization, including wildlife areas, forest preserves and other open space, but not including shooting ranges or club or commercial hunting preserves.
- D. Single family dwellings.
- E. Temporary or seasonal roadside stands for the sale of agricultural products.

**Subd. 4. Conditional or Interim Uses.** The following uses may be permitted upon the issuance of a conditional or interim use permit by the Town Board:

- A. Commercial recreation.
- B. Religious institutions.
- C. Governmental or club buildings.
- D. Cemeteries.

- E. Auto salvage yards.
- F. Adult uses as regulated in Section 19 of this Ordinance.
- G. Any permitted or conditional use in the B-2 zoning district provided that it is determined by the Town Board to be of the same general character as the permitted or conditional uses within this district; it conforms with the purpose and performance standards applicable to this district; and allows for the efficient development of the entire district.
- H. Permanent farm work residences (the lot must be at least 10 acres).
- I. Class A Home occupations as described in Section 16, subdivision 2 of this Ordinance.

**Subd. 5. Interim Uses.** The following uses may be permitted upon the issuance of an interim use permit by the Town Board:

- A. Commercial extraction of sand, gravel, soil, mineral or rocks.
- B. Kennels (the lot must be at least 10 acres).
- C. Temporary farm worker housing units (the lot must be at least 10 acres).
- D. Temporary housing units during the construction of a permanent dwelling.
- E. Temporary housing units for lineal descendants of the property owner.
- F. Auto salvage yards.
- G. Class B Home occupations as described in Section 16, subdivision 3 of this Ordinance.

**Subd. 6. Accessory Uses.** The following uses are permitted accessory uses:

- A. Any structure or use which is incidental to the permitted principal use including garages, sheds, fencing, and landscaping.
- B. Recreational facilities which serve the residents of the principal use.
- C. Operation and storage of vehicles, equipment and machinery which is incidental to the permitted principal use. There shall be no exterior storage of construction equipment or materials on a residential lot other than on a temporary basis for the purpose of construction activities being conducted on the lot.
- D. Essential services.

**Subd. 7. Lot Requirements.**

- A. Minimum Lot Area. A lot area of not less than two acres is required, of which an area of at least one contiguous acre, or the area necessary to support the principal and accessory structures, whichever is the larger, is determined to be buildable.
- B. Lot Width. A lot width of not less than 300 feet at the building line and front lot line is required.

**Subd. 8. Front, Side, and Rear Yard Requirements.**

- A. Front Yard. A front yard is required and must not be less than the following distances between the center line of the right-of-way and the building line:
  - 1. Buildings located on state trunk highways must be set back at least 135 feet from centerline of the right-of-way.
  - 2. Buildings located on county or county state-aid highways must be set back at least 110 feet from the centerline of the road.
  - 3. Buildings located on Town or other municipal roads, including unimproved platted or dedicated roads must be set back at least 110 feet from the road.
  - 4. In no case shall a building be set back less than 110 feet from the centerline of the road.
- B. Side Yard. Two side yards are required. Each side yard must have a width of not less than 20 feet.
- C. Rear Yard. A rear yard is required and the principal building must not be less than 50 feet from rear lot line.

**Subd. 9. Maximum Building Height.** All building heights shall not exceed 35 feet except as exempted in Section 11, subdivision 3 of this Ordinance.

**SECTION 9**

**(S) SHORELAND DISTRICT**

**Subd. 1. Purpose.** The Shoreland District is established to manage the use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of Shoreland and provide for the wise use of waters and related land resources, pursuant to Minnesota Statutes, Chapter 103F and Minnesota Rules, parts 6120-2500 – 6120.3900.

**Subd. 2. Shoreland District Boundaries.** The Shoreland District shall include all land located within the following distances from a public water: (i) 1,000 feet from the ordinary high

water level of a lake, pond, or flowage; and (ii) 300 feet from a river or stream; or the landward extent of a flood plain designed by ordinance on such a river or stream, whichever is greater.

**Subd. 3. Shoreland Classification System.** The public waters of the Town have been classified below consistent with the criteria found in Minnesota Rules, part 6120.3300 and the Protected Waters Inventory Map for Kanabec County, Minnesota.

Lake	Protected Waters Inventory I.D.#
A. Natural Environment Lakes	
1. Kent Lake	33-35
B. Recreational Development Lakes	
1. Devils Lake	33-33
2. Fish Lake	33-36
<hr/> Rivers and Streams <hr/>	
A. Transition Rivers	
1. Snake River	
B. Tributary Streams	
1. Ann River	
2. Spring Brook	
3. All other protected watercourses in the Town shown on the Protected Waters Inventory Map for Kanabec County.	

**Subd. 4. Permitted Uses.** The following uses are permitted in the Shoreland District:

- A. Forest management.
- B. Sensitive resource management.
- C. Agricultural activities and farmsteads, but not including agricultural feedlots.
- D. Single family residential.

**Subd. 5. Conditional Uses.** The following uses may be permitted upon the issuance of a conditional use permit by the Town Board: ((Also see Subd 17))

- A. Parks and historic sites.
- B. Semi-public uses.

- C. Surface water-oriented commercial uses (only on those parcels in this use prior to the effective date of this Ordinance).
- D. Permanent farm worker residences (the lot must be at least 10 acres).
- E. Class A home occupations as described in Section 21, subdivision 2 of this Ordinance.

**Subd. 6. Interim Uses.** The following uses may be permitted upon the issuance of an interim use permit by the Town Board:

- A. Temporary farm worker housing units (the lot must be at least 10 acres).
- B. Temporary housing units during the construction of a permanent dwelling.
- C. Temporary housing units for lineal descendants.
- D. Class B Home occupations as described in Section 21, subdivision 3 of this Ordinance.

**Subd. 7. Accessory Uses.** The following uses are permitted accessory uses:

- A. Any structure or use which is incidental to the permitted principal use including garages, sheds, fencing, and landscaping.
- B. Recreational facilities which serve the residents of the principal use.
- C. Operation and storage of vehicles, equipment and machinery which is incidental to the permitted principal use. There shall be no exterior storage of construction equipment or materials on a residential lot other than on a temporary basis for the purpose of construction activities being conducted on the lot.
- D. Off-street parking areas and the parking of vehicles.
- E. Essential services.

**Subd. 8. Minimum Lot Size.** A minimum lot size of not less than the following is required:

	Area* (in square feet)	Width* (in feet)
A. Natural Environment Lakes (Kent Lake)	80,000	200
B. Recreational Development Lakes (Devils Lake, Fish Lake)		
1. Riparian Lots	40,000	150
2. Nonriparian Lots	80,000	150

C.	Transition Rivers (Snake River)	80,000	250
D.	Tributary Rivers (Ann River and all other protected watercourses)	80,000	100

\* Only land above the ordinary high water level is used to meet lot area and width requirements.

E. Lots intended as controlled accesses to public waters or as recreational areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:

1. They must meet the width and size requirements for residential lots and be suitable for the intended uses of controlled access lots.
2. If docking, mooring, or over-water storage of more than six watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements

Ratio of lake size to shore length (acres/mile)	Required increase in frontage (percent)
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

3. They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non riparian lots in the subdivision who are provided riparian access rights on the access lot.
4. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize



topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

**Subd. 9. Placement, Design, and Height of Structures.**

A. Placement of Structures on Lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:

1. Structures and Individual Sewage Treatment System Setbacks (in feet) from Ordinary High Water Level.\*

<u>Setbacks*</u>	
<u>Structures</u>	<u>Individual Sewage Treatment System</u>
150	150

\*One water-oriented accessory structure designed in accordance with paragraph B of this Section may be set back a minimum distance of 10 feet from the ordinary high water level.

2. Additional Structure Setbacks. The following additional structure setbacks are required:

<u>Setback from:</u>	<u>Setback (in feet)</u>
a. Top of bluff	30
b. Unplatted cemetery	50
c. Right-of-way line of state, county, county state-aid highways	50
d. Right-of-way line of Town or municipal roads	35
e. Side lot line	20

3. Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
4. Uses without Water-Oriented Needs. Used without water-oriented needs must be located on lots or parcels without public waters frontage, or if located on lots or parcels with public water frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

B. Design Criteria for Structures.

1. High Water Elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including the basement, is placed or flood-proofed must be determined as follows:
  - a. For lakes, by placing the lowest floor at a level at least one foot above the highest known water level, or three feet above the ordinary high water level, whichever is greater;
  - b. For rivers and streams, by placing the lowest floor at least one foot above the flood of record, if data are available. If data is not available, by placing the lowest floor at least one foot above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules, parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and
  - c. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-drive waves and debris.
2. Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Subdivision 8 of this Section if this water-oriented accessory structure complies with the following provisions:

- a. The structure or facility must not exceed 10 feet in height and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;
  - b. The setback of the structure or facility from the ordinary high water level must be at least 10 feet;
  - c. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
  - d. The roof may not be used as a deck, but a structure must not be enclosed or used as a storage area. Decks or landings larger than specified in Section 11 are not permitted; and
  - e. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.
3. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
- a. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties and public open-space recreational properties;
  - b. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, and public open-space recreational properties;
  - c. Canopies or roofs are not allowed on stairways, lifts or landings;
  - d. Stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
  - e. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of a lot, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
  - f. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub-items (1) to (5) are complied with in addition to the requirements of Minnesota Rules Chapter 1340.

4. Fences. Fences that are six feet in height or less are not required to meet structure setback requirements and do not require a conditional use permit. Fences that six feet or greater in height require a conditional use permit.
  - a. Fences shall be constructed so as not to create a hazard for traffic on adjacent public roads.
  - b. Privacy fences are not allowed in the Shore Impact Zone.
5. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
6. Steep Slopes. The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before the Building Official issues a permit for construction of sewage treatment systems, roads, driveways, structures or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
7. Height of Structures. Primary structures must not exceed 25 feet in height. Accessory buildings must not exceed 18 feet in height.

**Subd. 10. Building Standards.**

- A. Primary Dwelling Size. All primary dwellings shall have a minimum floor area of at least 400 square feet. Additions to manufactured homes shall not be considered in determining area requirements.
- B. Frost Free Footings. All dwellings, including manufactured homes, must be placed on frost free footings, foundations, pillars or engineered concrete slabs designed to withstand frost action.
- C. Manufactured Homes. Any manufactured home placed on a lot shall be a U.S. Department of Housing and Urban Development certified unit as evidenced by the HUD certification seal affixed to the unit and not more than 20 years old.
- D. Number of Buildings. Not more than one principal dwelling shall be located on a lot. In case of doubt or on any question or interpretation, the decision of the Zoning Administrator shall be final, subject to the right of appeal to the Board of Appeals and Adjustments.

- E. Maximum Square Footage. The maximum square footage for accessory buildings, without a conditional use permit is as follows:

<u>Lot Size</u>	<u>Total Accessory Building Square Footage</u>
Less than one acre	1,500 square feet
One acre but less than two acres	2,000 square feet
Two acres, but less than four acres	3,000 square feet

Attached garages shall not be considered as part of the square footage for purposes of the above calculations.

Impervious surface coverage of lots must not exceed 25 percent of the lot area.

Accessory structures shall be designed to be compatible with the principal building and general neighborhood environments, including, but not limited to, exterior finish, color, materials, overhangs, soffits and fascia.

**Subd. 11. Nuisances.** Any visual appearance, noise, odor, heat, dust, vibration, smoke, air pollution, glare, electrical interferences, or other such objectionable influences or the storage of refuse or disposal of wastes that are construed by the Town to be a menace or nuisance to the public health, safety or general welfare of the Town, or to have depressing influence upon property values in the area shall be prohibited.

- A. The prohibition of any sewage, industrial waste or other substance is prohibited from being introduced into any well, stream, lake or body of water.
- B. All carcasses of animals shall be buried or destroyed or otherwise disposed of within 48 hours after death.
- C. The ownership, possession or control of any unused appliances or other containers with doors which fasten automatically when closed and of sufficient size to retain any person that are exposed and accessible to the public without the removal of the doors, lids, hinges, or latches or the locking thereof to prevent access by the public, is prohibited.
- D. No person in charge or control of any property shall allow any unlicensed, partially dismantled, inoperative, wrecked or junked vehicles to remain on the property longer than 30 days where said vehicle is visible from a public road or adjacent residence.
- E. All structures, landscaping and fencing shall be reasonably maintained so as to avoid health or safety hazards and prevent degradation in the value of adjacent property.

- F. A property owner may store up to two recreational vehicles, campers, travel trailers or other such vehicles on a lot. If there are more than two of these types of vehicles being stored on a lot, they must be screened from public view.

**Subd. 12. Shoreland Alterations.** Alterations of vegetation and topography must be regulated to prevent erosion into public waters, fix nutrients, preserve Shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

A. Vegetation Alterations.

1. Vegetation alteration necessary for the construction of structures and individual sewage treatment systems and the construction of roads and parking areas regulated by subdivision 13 of this Section are exempt from the vegetation alteration standards that follow.
2. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in subdivision 15 of this Section, paragraphs B and C, respectively, is allowed subject to the following standards:
  - a. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
  - b. In shore and bluff impact zones and on steep slopes limited clearing, cutting, pruning and trimming of trees (not more than 30 percent) is allowed in order to provide a view to the water from the principal dwelling site and in order to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
    - i. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
    - ii. Along rivers, existing shading of water surfaces is preserved; and
    - iii. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

B. Topographic Alterations/Grading and Filling.

1. Grading and filling and excavations necessary for the construction of structures, individual sewage treatment systems, and driveways under validly issued

construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, individual sewage treatment systems, and driveways.

2. Public roads and parking areas are regulated by Subdivision 13 of this Section.
3. Notwithstanding paragraphs 1 and 2 above, a grading and filling permit will be required for:
  - a. The movement of more than 10 cubic yards of material on steep slopes or within shore or bluff impact zone; and
  - b. The movement of more than 50 cubic yards of material outside of a steep slope, shore or bluff impact zone.
4. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
  - a. Grading or filling in any wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:
    1. Sediment and pollutant trapping and retention;
    2. Storage of surface runoff to prevent or reduce flood damage;
    3. Fish and wildlife habitat;
    4. Recreational use;
    5. Shoreline or bank stabilization; and
    6. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

\* This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers.

- b. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
  - c. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
  - d. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
  - e. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
  - f. Fill or excavated material must not be placed in a manner that creates an unstable slope;
  - g. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
  - h. Fill or excavated material must not be placed in bluff impact zones;
  - i. Any alterations below the ordinary high water level of a public water must first be authorized by the Commissioner of Natural Resources pursuant to Minnesota Statutes, section 103G.245;
  - j. Alterations of topography will be allowed only if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
  - k. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical the landward extent of the riprap is within 10 feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.
5. Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local Shoreland controls. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters.

**Subd. 13. Placement and Design of Roads, Driveways and Parking Areas.**



- A. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
- B. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist.
- C. Public watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Subdivision 9 (3b) of this Section of this Ordinance must be met.
- D. Parking of recreational vehicles, campers, trailers and movable structures (including fish houses) must meet structure setbacks.

**Subd. 14. Stormwater Management.** The following general and specific standards shall apply:

A. General Standards:

- 1. When possible, existing natural drainageways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharge to public waters.
- 2. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- 3. When development density, topographic features and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, raingardens and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made material and facilities.

B. Specific Standards:

- 1. Impervious surface coverage of lots must not exceed 25 percent of the lot area.

2. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
3. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

**Subd. 15. Standards for Commercial, Industrial, Public/Semipublic, Home Occupation, Agricultural and Forestry Uses.**

- A. Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
  1. In addition to meeting impervious coverage limits, setbacks and other zoning standards in this Ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
  2. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
  3. Signs and lighting may be used to convey needed information to the public, subject to the following general standards:
    - a. No signs may be placed in or upon public waters with the exception of signs that are posted by authorized government officials;
    - b. On-premise signs may be placed within the Shore Impact Zone if they are designed and sized to be the minimum necessary to convey needed information. The total display surface area of the sign must not exceed 32 square feet. If illuminated, the lights must be shielded or directed to prevent illumination out across public waters; and
    - c. Other outside lighting may be located within the Shore Impact Zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
  4. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

B. Agricultural Use Standards.

1. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the National Resources Conservation, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

- C. Forest Management Standards. The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Non-point Source Pollution Assessment Forestry and the provisions of Water quality in Forest Management “Best Management Practices in Minnesota.”

**Subd. 16. Land Reclamation.** All land reclamation shall meet the following minimum standards:

- A. The smallest amount of bare ground is exposed for the least amount of time as feasible.
- B. Temporary ground cover must be used and permanent ground cover, such as sod, must be planted.
- C. Methods to prevent erosion and trap sediment must be employed.
- D. Fill is stabilized to accepted engineering standards.
- E. Final slopes for cut slopes shall be a maximum of 1:1; fill slopes must be 3:1, and grade or construction slopes must 5:1.

**Subd. 17. Conditional Uses.** Conditional uses allowable within Shoreland areas shall be subject to the review and approval procedures and criteria and conditions for review of conditional uses established in Section 23 of this Ordinance. The following additional evaluation criteria and conditions apply within Shoreland areas:

- A. Evaluation Criteria. A thorough evaluation of the water body and the topographic, vegetation and soils conditions on the site must be made to ensure:
  1. The prevention of soil erosion or other possible pollution of the public water, both during and after construction;
  2. The visibility of structures and other facilities as viewed from the public water is limited;

3. The site is adequate for water supply and on-site sewage treatment; and
4. The types, uses and number of watercraft that the project will generate are compatible in relation to the suitability of public water to safely accommodate these watercraft.

B. Conditions Attached to Conditional Use Permits. The Town Board, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

1. Increased setbacks from the ordinary high water level;
2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
3. Special provisions for the location, design, and use of structures, individual sewage treatment systems, watercraft launching and docking areas and vehicle parking areas.

**Subd. 18. Water Supply and Sewage Treatment.**

A. Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

B. Sewage Treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

1. Publicly owned sewer systems must be used where available.
2. All individual sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's regulations for individual sewage treatment systems contained in the Minnesota Rules which is hereby adopted by reference and declared to be a part of this Ordinance.
3. Individual sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Subdivision 9 (A) of this Section.
4. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in sub-items (1) – (4). If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

Evaluation criteria:

- a. Depth to the highest known or calculated ground water table or bedrock;
- b. Soil conditions, properties and permeability;
- c. Slope;
- d. The existence of lowlands, local surface depressions, and rock outcrops.

**Subd. 19. Non-conformities in the Shoreland District.** All legally established non-conformities as of the date of this Ordinance may continue, but they will be managed according to applicable state statutes and other applicable regulations.

A. Nonconforming lots of record.

1. Shoreland lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of lot size or width may be allowed as building sites without variances from lot size requirements provided that:
  - a. All structure and septic system setback distance requirements can be met;
  - b. A Type 1 individual sewage treatment system consistent with the Minnesota Rules Chapter 7080 can be installed or the lot is connected to a public sewer; and
  - c. The impervious surface coverage does not exceed 25 percent of the lot.
2. In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
  - a. The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules Chapter 6120;
  - b. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules Chapter 7080 and local government controls;
  - c. Impervious surface coverage must not exceed 25 percent of each lot; and

- d. A lot subject to this subsection 2 not meeting the requirements of subsection 2 must be combined with one or more contiguous lots so they equal one or more conforming lots as much as possible.
3. Notwithstanding subsection 2, contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, an individual sewage treatment system consistent with the requirements of Minnesota Statutes, section 115.55 and Minnesota Rules Chapter 7080, or connected to a public sewer.
4. In evaluating all variances, zoning and building permit applications or conditional use permit requests, the property owner shall be required to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setbacks, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities and other conservation-designed actions.

**B. Additions/expansions to nonconforming structures.**

1. All additions or expansions to the outside dimensions of an existing non-conforming structure in a shoreland area must meet the setback, height and other requirements of Subdivision 9 of this Section. Any deviation from these requirements must be authorized by a variance pursuant to the Subdivision Ordinance.
2. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
  - a. The structure existed on the date the structure setbacks were established;
  - b. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
  - c. The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and
  - d. The deck is constructed primarily of wood, and is not roofed or screened.

**Subd. 20. Certificates of Septic System Compliance.**

- A. No owner or agent of an owner shall sell by conveyance or contract for conveyance, or a lease of a term of three years or more, any dwelling located within a shoreland area without first providing a Certificate of Septic System Compliance to the buyer or the lessee, prior to the time of the transaction, or entering into an escrow agreement.
- B. An escrow agreement is allowed as an alternative to an incomplete Certificate of Septic System Compliance provided that it meets the following criteria:
  - 1. The seller of the property as well as all other parties with title or interest to the property to be sold shall be clearly identified.
  - 2. The buyer of the property shall be clearly identified.
  - 3. The escrow agent shall be clearly identified.
  - 4. The seller or lessor shall provide a written agreement with an installer, licensed by Kanabec County for the installation of a septic system designed by a licensed designer for the project at the site.
  - 5. There shall be deposited pursuant to the escrow agreement, 150 percent of the amount of the installation contract price as set forth in paragraph 4 above.
  - 6. The escrow agreement must clearly state the terms under which the escrow money is to be disbursed. The escrow money must not be disbursed prior to the system receiving a Certificate of Septic System Compliance, which must be provided to the Kanabec County Environmental Services Office.
  - 7. The passing Certificate of Septic System Compliance must be provided within 10 months of the date of the escrow agreement.
  - 8. The escrow agreement must provide that in the event a passing Certificate of Septic System Compliance is not provided to the County Environmental Services Office within 10 months of the date of the escrow agreement, that the County may utilize said funds to bring the system into compliance.
- C. A Certificate of Septic System Compliance or an approved escrow agreement must accompany the deed for recording. The County Recorder will note on a copy of the deed when the required forms are not submitted. Nothing in this section precludes the County Recorder from recording a deed.

**Subd. 21. Subdivision/Platting in the Shoreland District.**

- A. Land Suitability. Each lot created through subdivision is subject to the provisions of the Subdivision Ordinance and must be suitable in its natural state for the proposed use with minimal alteration. The Town shall consider the lot's susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe

erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

- B. Consistency with Other Controls. Subdivisions must conform to all official controls of the Town. A subdivision will not be approved where a later variance from one or more standards in the official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply and a sewage treatment system can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Subdivision 8 of this Ordinance, including at least a minimum contiguous lawn area that is standard soil treatment systems.
- C. Application Requirements. Sufficient information must be submitted by the applicant for the Town to make a determination of suitability. The information shall include the following:
1. Topographic contours at 10 foot intervals or less from the United States Geological Survey maps or more accurate sources, showing limiting site characteristics.
  2. The surface water features required in Minnesota Statutes, section 505.02, subdivision 1, to be shown on plats, obtained from the United States Geological Survey quadrangle topographic maps or more accurate sources;
  3. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests or other methods.
  4. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
  5. Location of 100 year flood plain areas and floodway districts from existing adopted maps or data; and
  6. A line or contour representing the ordinary high water level, the “toe” and the “top” of a bluff, and the minimum building setback distances from the top of the bluff and the lake or stream.



- D. Dedications. When a land or easement dedication is a condition of subdivision approval, the applicant must provide the Town with easements over natural drainage or ponding areas for management of stormwater and wetlands.
- E. Platting. All subdivisions that create five or more lots or parcels that are two and one-half acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505.
- F. Controlled Access or Recreational Lots. Lots intended as controlled access to public waters or for recreational use areas for use by non riparian lots within a subdivision must meet or exceed the sizing criteria set forth in Section 9 of this Ordinance.

## SECTION 10

### PLANNED UNIT DEVELOPMENT (PUD)

**Subd. 1. Purpose.** The purpose of this Section is to allow for a method of land use or development that is characterized by a unified site design for a number of units or sites on a parcel, whether for sale or lease, to utilize clustering of units or sites, to provide areas of common open space, density increases and a mix of structure types and land uses. Planned unit developments may be organized and operated as residential or commercial enterprises, such as individual dwelling units, townhouses, condominiums, time-share condominiums, cooperatives, common interest communities, shared-interest communities, full fee ownership, commercial enterprises or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, manufactured home parks, hotels, motels or any combination of these.

The Planned unit development concept is intended for use only where the usual application of the Town's zoning and subdivision controls: 1) would not provide adequate environmental protection; 2) would allow design standards detrimental to the natural aesthetic and physical characteristics of the site; or 3) would not provide an efficient and feasible use of the property.

**Subd. 2. Conditional Use Permit Required.** A conditional use permit shall be required for any planned unit development. The application for the conditional use permit shall state precisely the reasons for requesting the consideration of the property for a planned unit development and shall be accompanied by all required application fees.

**Subd. 3. Planned Unit Development Application and Review Process.**

- A. The planned unit development application process, described in this section, consists of:
  - 1. A pre-application meeting between the applicant and the Zoning Administrator;
  - 2. The submission and review of preliminary and final plats and conditional use permit by the Planning Commission and the Town Board; and

3. The approval of the final plat and the conditional use permit by the Town Board.

B. Pre-application “Concept” Meeting.

1. Prior to the submission of an application for a conditional use permit for the creation of a planned unit development, the applicant must meet with the Zoning Administrator and other Town officials to present, conceptually, the proposed planned unit development and to determine the requirements to be met.

2. The applicant shall present a sketch of the proposed planned unit development containing proposed lots and roads and the physical features of the property. The sketch plan shall be signed and dated by the applicant.

C. Preliminary Plat. After the sketch plan has been submitted and reviewed by the Town, the applicant must submit a preliminary plat for the planned unit development to the Town. All preliminary plat requirements that are set forth in the Subdivision Ordinance must be met. The Town will proceed with review and consideration of the preliminary plat for the planned unit development using the same process as set forth for preliminary plats in the Subdivision Ordinance.

D. Final Plat. Upon approval of the preliminary plat by the Town Board, the applicant shall submit the final plat of the planned unit development for approval by the Town Board. All final plat and conditional use permit requirements that are set forth in the Subdivision Ordinance must be met. The Town will proceed with review and consideration of the final plat for the planned unit development using the same process as set forth for final plats and conditional use permits in the Subdivision Ordinance. Upon approval of the final plat, a conditional use permit shall also be issued.

**Subd. 4. General Regulations.**

A. Subdivisions and lots created within the planned unit development must conform to all of the official controls set forth in this Ordinance.

B. All homeowners’ association bylaws, articles of incorporation, declarations and covenants must be approved by the Town Board and Town Attorney and be recorded with the plat.

C. No conveyance of property within the planned unit development shall take place until the property is platted in conformance with the provisions of this Section and the Subdivision Ordinance.

D. The planned unit development may include only those uses allowed for in the zoning district in which the planned unit development is located, unless the Town Board finds that the additional use(s) being requested are compatible with uses in the zoning district and inter-related with the other proposed uses.

- E. Parking spaces in private garages or off-street parking spaces must be provided for the property in accordance with the requirements of Section 13 of this Ordinance.
- F. Drives, accesses and common parking areas must be developed to a standard equal to that required for public use by Section 13 of this Ordinance. Such drives, accesses and common parking areas must be protected by recorded covenants assuring their availability to all residents of the planned unit development.

**Subd. 5. Planned Unit Development Design.**

- A. The number of units that may be constructed within a planned unit development shall be determined by dividing the net buildable acreage of the area within the planned unit development by the required lot area per unit which is required in the zoning district which the planned unit development is located. The net buildable acreage shall be calculated by taking all land within the planned unit development which will be allocated for residential, commercial or industrial uses and for common open space and subtracting any unbuildable land and land dedicated or to be dedicated for public streets.
- B. All elements of the planned unit development must be designed so that they achieve a unified scheme of integrated planning and distribution of uses.
- C. The proposed planned unit development shall be of such size, composition and arrangement that its construction, marketing and operation is feasible as a complete unit, without dependence on constructing any subsequent units or development of any additional property.
- D. If the planned unit development will not be served by municipal sewer or water, it must be served by a community sewer or water facility which is owned, operated and maintained by a homeowners' association.
- E. The applicant may be required to dedicate land to the Town for street or park purposes and, by appropriate covenants, to restrict areas perpetually or for the duration of the planned unit development as open space for common or public use.

**Subd. 6. Standards for Common or Public Open Space.** No open area within a planned unit development may be approved by the Town as common open space unless it meets the following standards:

- A. The land which is to be set aside as open or common area shall be clearly indicated on the plat. Provisions for continual maintenance of all recreational areas and other open or common areas not dedicated and accepted by the Town or other public entity shall be required.
- B. The location, shape, size and character of the common open space must be suitable for the planned unit development.

- C. Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned unit development, considering its size, density, expected population, topography and the number and type of structures to be provided.
- D. Common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space, having regard to its topography and unimproved condition.
- E. The applicant will be responsible for an evaluation that must include coordinating the construction of buildings, structures, and improvements in the common open space with the construction of the principal structures of the planned unit development. If the planned unit development provides for buildings or structure improvements in the common open space, the applicant must provide the Town with a bond or other adequate assurance in a form and amount that is satisfactory to the Town that all buildings, structures and improvements will be completed according to the plans submitted to the Town.

**Subd. 7. Conveyance and Maintenance of Common Open Space.**

- A. All land shown on the final development plat as common open space must be conveyed to one of the following types of entities:
  - 1. A public agency that agrees to maintain the common open space and any buildings, structures or improvements which are to be placed on it; or
  - 2. It may be conveyed a homeowners' association or similar entity to maintain the common open space and any buildings, structures or improvements which have been placed on it. The homeowners' association covenants must be approved by the Town Board and Town Attorney in order to ensure that they restrict the common open space to the uses specified on the final plan and provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.
- B. Interest in all of the common open space within the planned unit development shall be undivided. Such interest shall not be transferable without the consent of the Town.

**Subd. 8. Amendments to the Planned Unit Development.** All changes in use, or rearrangement of lots, blocks, and building tracts, any changes in the provision of common open spaces, and all other changes in the approved planned unit development must be approved by the Town Board. No amendments may be made in the approved final plan unless they are shown to be required by changes in conditions that have occurred since the planned unit development was approved or by changes in the development policy of the Town. No common open space may be

put to any use that is not specified in the planned unit development unless the Town Board has approved an amendment to permit that use. However, no change of use may be considered as a waiver by the Town of any of the covenants limiting the use of common open space areas, and all rights to enforce these covenants against any permitted use are expressly reserved.

## SECTION 11

### BUILDING REQUIREMENTS

**Subd. 1. Purpose.** The purpose of this Section is to establish building requirements and standards which apply to all zoning districts within the Town to assure compatible land uses; to prevent blight and deterioration; and to enhance the public health, safety and general welfare.

**Subd. 2. Building Standards.**

- A. Any person desiring to improve property shall submit to the Zoning Administrator and the Building Official information on the location, and dimensions of all existing and proposed buildings, the location of any easements on the property, the location of any encroachments, the location of the property lines and any other information which may be necessary to ensure conformance to Town Ordinances.
- B. No buildings shall be permitted on areas considered as wetlands, flood plain, peat or muck soils, or areas having poor drainage, or areas where the water table depth is less than four feet. The lowest floor level of a building shall be at least 12 inches from the periodic high water level.
- C. No buildings shall be permitted in areas that are designated as future right-of-way on a transportation map developed pursuant to Minnesota Statutes, Chapter 462 and adopted by the Town.
- D. Not more than one principal building shall be located on a lot, except in cases described herein. In case of doubt or on any question or interpretation, the decision of the Zoning Administrator shall be final, subject to the right of appeal to the Board of Appeals and Adjustments.

**Subd. 3. Building Size and Architectural Requirements.** The following building size and architectural standards shall apply to all districts unless otherwise specified.

- A. Design Standards. The architectural appearance and function of any building and site shall not be so dissimilar to the existing buildings or area as to constitute a blighting influence. Earth sheltered buildings are allowed if they are in compliance with all other zoning provisions promulgated pursuant to Minnesota Statutes, section 462.357 and the Minnesota State Building Code.
- B. Height Exceptions. The building height limits established in this Ordinance shall not apply to agricultural buildings, grain elevators, nor to architectural projections of

buildings such as belfries, cupolas, domes, spires, chimneys, flues or to similar structures extending above the roof of any building and not occupying more than 25 percent of the area of such roof.

Free-standing structures such as water tanks, poles, towers and other structures for essential services, monuments and flag poles shall also be exempt from the building height requirements of the zoning district in which the structure is located.

**Subd. 4. Dwelling Unit Restrictions.**

- A. No garage, recreational vehicle, travel trailer, tent or accessory building shall at any time be used as an independent residence or dwelling unit, temporarily or permanently, except allowed as a conditional use as set forth and regulated by subdivision 7 of this Section.
- B. Tents, playhouses or similar structures may only be used for play or recreational purposes.

**Subd. 5. Dwelling Unit Size.** All dwelling units shall have a minimum finished livable space of at least 400 square feet and a minimum width of 14 feet, measured between parallel walls. Additions to manufactured homes shall not be considered in determining dwelling area and width requirements. Temporary dwellings as allowed for in subdivision 7 of this Section are exempt from these requirements.

**Subd. 6. Interim and Accessory Residences.** An interim use permit may be issued for one accessory residence to be placed or constructed on the same lot as an existing principal residence in the following cases:

**Subd. 7. Temporary Housing Unit during Construction of Permanent Dwelling.** In the Agricultural-Residential, Rural Residential, Agricultural-Transitional and Shoreland districts, a 12 month renewable interim use permit, which may be renewed to a maximum of 24 months may be issued to allow a temporary housing unit to be placed and occupied on the same site when a permanent dwelling is being constructed provided that:

- A. A building permit for the permanent dwelling has been issued;
- B. An approved sewer system has been installed on the site to serve the temporary housing unit;
- C. The temporary housing unit shall not be subsequently divided from the original parcel or lot unless all density, lot and setback provisions of this Ordinance are met and it is approved by the Town Board; and
- D. When the interim use permit expires, the temporary housing unit must be removed.

**Subd. 8. Temporary Housing Unit for Lineal Descendants.** In the Agricultural-Residential, Rural Residential, Agricultural-Transitional and Shoreland districts, a 12-month renewable interim use permit, which may be renewed to a maximum of 60 months, may be

issued to allow a temporary housing unit to be placed and occupied on the same lot as the principal residence when the person(s) occupying the temporary housing unit or principal residence are lineal descendants, provided that:

- A. The lot is one acre or greater in size;
- B. An approved sewer system exists on the site to accommodate the temporary housing unit;
- C. The temporary housing unit shall not be subsequently divided from the original parcel or lot unless all lot, density and setback provisions of this Ordinance are met and it is approved by the Town Board; and
- D. When the interim use permit expires, the temporary housing unit must be removed.

**Subd. 9. Farm Worker Housing.** In the Agricultural-Residential, Rural Residential, Agricultural-Transitional and Shoreland districts, an interim use permit for a temporary housing unit may be issued to allow an accessory residence to be placed or constructed and occupied on a farm which consists of a minimum of 10 acres to provide housing for a person(s) or family which is actively engaged in the operation of the farm. A conditional use permit may be issued to allow a permanent residence to be constructed and occupied on a farm which consists of a minimum of 10 acres to provide housing for a person(s) or family which is actively engaged in the operation of a farm. The following requirements must be met:

- A. A major portion of the livelihood of the person(s) or family residing must derived from the farm that is located on the property;
- B. An approved sewage treatment system must exist on the site that will be able to accommodate the additional residence; and
- C. The accessory residence shall not be subsequently divided from the original parcel or lot unless all lot, density and setback provisions of this Ordinance are met and it is approved by the Town Board.
- D. If the residence is temporary and an interim use permit has been issued, the temporary housing unit must be removed upon expiration of the interim use permit.

**Subd. 10. Additional Conditions.** When issuing a conditional use permit or issuing or renewing a conditional use permit for an accessory residence pursuant to this Section, the Town Board may place additional, reasonable conditions on the permit to further the purpose and intent of this Ordinance. The failure to comply with these conditions may result in the revocation of said permit.

**Subd. 11. Temporary Dwellings.** Temporary dwellings other than those provided for in this Subdivision, including travel trailers, campers, tents, recreational vehicles and other vehicles or structures which are adapted for living and may be reasonably transported, may only be placed or occupied for dwelling purposes on a parcel or lot in the Agricultural-Residential, Rural

Residential, Agricultural-Transitional and Shoreland districts for a period not to exceed 30 consecutive days or more than 30 days of a 60-day period. Only one temporary dwelling may be placed on a parcel or lot in these districts, except for short-term periods such as family reunions, and visits which do not exceed a period of 14 days. Any deviation from the above restrictions shall be allowed in these districts only upon the issuance of an interim or conditional use permit for a campground if allowed in that particular zoning district.

**Subd. 12. Accessory Structures, Use and Equipment.** The following requirements apply to all districts, unless otherwise noted.

- A. Part of Principal Building. An accessory building shall be considered an integral part of the principal building if it is attached to the principal building.
- B. Permitted After Principal Building. No accessory building or structure shall be permitted on any lot prior to the time of construction of the principal building to which it is accessory, except for the following:
  - 1. A private garage which is to be used only for storage purposes pertaining to the construction of the principal building;
  - 2. Temporary construction offices;
  - 3. Temporary housing units to be used during the construction of the permanent dwelling; and
  - 4. Agricultural buildings on lots of 10 acres or more, where an agricultural use is ongoing.
- C. No accessory structures shall be of such an appearance as to constitute a blighting condition or be in such disrepair or deterioration as to be a threat to health and safety, or to cause the value of adjacent properties to depreciate.

**Subd. 13. Building in the Fire Prone Area.**

- A. Purpose. The purpose of this subdivision is to establish specific regulations for construction of buildings that are located in the fire prone area. These regulations are established to minimize the chances of loss of life and property due to wildfires.
- B. Fire Prone Area. A fire prone area is defined as an area which contains natural conifer stands or conifer plantations, which due to flammability of the tree needles, associated ground vegetation, accumulation of duff on the ground, and presence of droughty soils, pose a great potential for rapidly spreading wildfires. The Zoning Administrator shall inform an owner if their property is within a fire prone area upon request or at the time an owner applies for a building permit to construct a building within a fire prone area. The Town may develop a map of those portions of the Town it has identified as being fire prone areas.



- C. Regulations for Building in the Fire Prone Area. The following regulations apply to buildings to be constructed in the fire prone area:
1. Conifer stands shall be thinned as to not be a solid stand and shall be pruned to a height of 10 feet above the ground in the area within 30 feet around the perimeter and eaves of the roofs of the building.
  2. Home construction materials shall conform to reflect fire danger of the area. Roofs and exteriors of buildings should be of fire resistant nature. Non-fire retardant treated shingles or siding or materials which are not innately flame resistant should be avoided.
  3. Underground power lines are encouraged.
  4. Screening of chimneys with non-flammable material with openings no larger than one-half inch in size is required.
  5. Compliance with the recommendations in the Minnesota Department of Natural Resources' publication "Creating a Firewise Property" is encouraged.

## SECTION 12

### YARD AND LOT AREA REQUIREMENTS

**Subd. 1. Purpose.** The purpose of this Section is to determine minimum yard area and setbacks for all zoning districts.

**Subd. 2. General Statement.** No lot, yard, or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than a minimum required by this Ordinance, and if the existing yard or other open space as existing is equal or less than the minimum required, it shall not be further reduced.

**Subd. 3. Yard Requirements.** The minimum yard requirements from the appropriate lot line are set forth within the zoning district provisions of this Ordinance. The following general provisions apply to all zoning districts.

- A. Corner Lots. Where a lot is located at the intersection of two or more streets, the width of the yard along the side street shall not be less than the front yard setback.
- B. Through Lots. On a lot fronting on two parallel streets, both street lines shall be considered to be front lot lines for purposes of applying the setback and yard requirements of this Ordinance.

- C. Rear Yard Setback with Alley Adjoining. In computing the setback for any building in a rear yard where the rear line of the lot adjoins an alley, one-half the width of such alley may be included as part of the rear yard. In any residential zoning district, the rear yard setback, which shall not include any part of the alley, shall be not less than 10 feet for any accessory building or 20 feet if there is a garage door on the building that faces the alley.
- D. Earth Sheltered Buildings. Computations for yard requirements shall be based upon measurements from the exposed exterior surface of the building.
- E. Exceptions. The following shall not be considered as an encroachment into setback requirements.
  - 1. Architectural projections extending not more than three feet into the yard area from the structure.
  - 2. In rear yards, recreational equipment, laundry drying equipment, trellises and air conditioning or heating equipment so long as all types of equipment is not located less than two feet from any lot line.
  - 3. Driveways and parking areas in residential zoning districts, terraces, steps, stoops, patios, decks or similar features in all zoning districts, provided they do not exceed the height of the principal structure or extend to a distance less than two feet from any lot line.
  - 4. Retaining walls so long as they are located not less than one foot from any lot line.
  - 5. Parking areas in the Retail and Service Business District and the General Business District.

**Subd. 4. Lot Area Requirements.** The minimum lot area requirements are set forth within the zoning district provisions of this Ordinance.

- A. Lot Area with Alley Adjoining. In computing required minimum lot area, one-half of the width, but not exceeding 10 feet of any alley or portion thereof abutting any lot line may be included as part of the lot area for such computation.

## SECTION 13

### OFF-STREET PARKING AND LOADING

**Subd. 1. Purpose.** It is the purpose of this Section to provide for the regulation of and design standards for off-street parking facilities within the Town, to minimize congestion on the public right-of-ways, and to maximize the safety and general welfare of the public.

**Subd. 2. Scope of Regulations.** In the event that a provision in another section of this Ordinance conflicts with this Section, the most restrictive provision shall apply. The off-street

parking requirements and off-street loading requirements of this Section shall apply to all zoning districts.

**Subd. 3. Calculating Space.**

- A. Where calculations result in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
- B. The term “floor area” for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the building structure or use times the number of floors, minus 10 percent.
- C. Should a building or structure contain two or more types of uses, the floor area of each use must be calculated separately for determining the total number of off-street parking spaces required.
- D. The parking requirements for a use not specifically mentioned herein shall be the same as required for a use of similar nature as determined by the Town Board.

**Subd. 4. Site Plan.** Except for single family dwellings, all applications for a building or an occupancy permit shall be accompanied by a site plan drawn to scale and dimensioned, indicating the location of all off-street parking and loading spaces in compliance with the requirements of this Section. Such plan shall be reviewed by the Planning Commission and approved by the Town Board, in accordance with the criteria developed in subdivision 5 of this Section. The site plan shall include the following information:

- A. Zoning, setbacks, and statement of use;
- B. North point and scale;
- C. The location of all adjacent streets and alleys;
- D. The location of all sidewalks, curbs, gutters, lighting, storm water drainage and street trees;
- E. The names of the owners of the lot or parcel being developed and their current address(es);
- F. A dimensional parking layout that shows all parking spaces;
- G. The type and thickness of the paving or other surface cover for any parking areas; and
- H. The location and type of all screening and landscaping to be used.

**Subd. 5. Site Plan Criteria.** Upon review by the Planning Commission and approval by the Town Board, the plan for off-street parking shall meet the following site design standards:

- A. All areas devoted to parking spaces and driveways shall be surfaced with materials suitable to control dust and drainage as determined by the Planning Commission and the Town Board. All parking areas shall be designed to control surface water runoff to adjacent properties either with curbing or grading techniques and shall include containment or sedimentation ponds or “Rain Gardens” if determined to be necessary by the Town Supervisor/Road Manager.
- B. Any lighting used to illuminate off-street parking areas shall be directed away from and otherwise be directed and shielded so as to not spread glare or excess light to abutting properties and public right-of-way.
- C. No sign shall be so located as to restrict the sight, orderly operation and traffic movement within any parking area.
- D. Parking lots shall be required to be screened and landscaped from abutting residential and institutional uses or districts by a wall, fence, or densely-planted, compact hedge or tree cover not less than five feet but not more than eight feet in height.
- E. The parking area shall meet the minimum design standards and contain the number of stalls required within this Section.

**Subd. 6. Reduction and Use of Parking and Loading Space.** Off-street parking and loading facilities provided to comply with the provisions of this Ordinance shall not subsequently be reduced below the requirements of this Ordinance. No change of use or occupancy of land, or of use or occupancy of any building shall be made until there is furnished sufficient parking and loading spaces as required by this Section. In such case where reconstruction enlarges bulk or floor area or other such measurable unit prescribed in this Ordinance, parking and loading facilities shall be provided for that measurable unit beyond the original type use of structure.

**Subd. 7. Parking of Commercial Vehicles or Equipment.** No commercial vehicles or equipment exceeding 12,000 pounds in gross weight shall be parked, stored or otherwise continued in a platted residential subdivision for more than a maximum of 24 hours unless it is within a completely enclosed structure or unless it is being used in conjunction with a legitimate service being rendered for the benefit of the residential premises.

**Subd. 8. Parking and Storage of Certain Vehicles.** No more than one vehicle or trailer without current license plates or that is inoperable shall be parked or stored on any platted residential property or properties that are less than two acres in size other than in a completely enclosed building. No more than three vehicles or trailers without current license plates or that are inoperable may be parked or stored on any other property other than in a completely enclosed building.

**Subd. 9. Maintenance.** It shall be the responsibility of the lessor or owner of the principal use or building to maintain the off-street loading and parking area in a neat and adequate manner, including maintaining all landscaping, screening and parking area striping.

**Subd. 10. Stall, Aisle and Driveway Design.**

- A. Except in the case of single family and two-family dwellings on lots of less than two acres, parking areas shall be designed so that circulation between parking aisles or driveways occurs within the designated parking lot and does not depend upon a public street or alley, and such design does not require backing into the public street.
- B. Except in the case of single family and two-family dwellings, all required parking stalls and parking area driveways shall have the following measurements:

Angle of Parking	Stall Width	Stall Depth	Driveway Width
0 degrees	10'	10'*	12'
30 degrees	10'	19'	11'
45 degrees	10'	22'	18'
90 degrees	10'	19'	24'

\* Parallel Parking: 22 feet in length

- C. No driveway access shall be located less than 40 feet from the intersection of two or more street right-of-ways for residential uses and 60 feet for commercial and industrial uses. This distance shall be measured from the intersection of lot lines.
- D. Driveway entrances shall be a minimum of 10 feet from the side property line. Common or shared driveways serving more than one lot are exempt from this requirement.
- E. All properties must have at least one access to the right-of-way.
- F. All parking spaces shall be served by an access aisle or driveway connection to a public right-of-way.

**Subd. 11. Number of Required Parking and Loading Spaces.** The following minimum number of off-street parking and loading spaces shall be provided and maintained:

Use	Required Number of Parking Spaces	Required Number of Off-street Loading & Unloading Spaces
<b>Residential Uses</b>		
Single Family	2 spaces per dwelling	0
Two Family	2 spaces per dwelling unit	0
Senior Housing	1 space per dwelling unit	0
Multiple Family	2 spaces per dwelling unit	0
<b>Institutional Uses</b>		
Auditoriums, stadiums,	One space for every two seats	One space for every 20,000

Use	Required Number of Parking Spaces	Required Number of Off-street Loading & Unloading Spaces
gymnasiums, community centers and religious institutions (private or public)	in the place of assembly plus one space for every 250 square feet of gross office floor area.	square feet of gross floor area.
Hospitals, rest homes and nursing homes	One space for every two beds plus one space for every two employees scheduled to work on each shift.	One space for every 20,000 square feet of gross floor area.
Schools	Primary Schools - One space for each classroom and one space for every staff person. Secondary Schools – One space for every four students and one space for every staff person.	One space for every 20,000 square feet of gross floor area.
<b>Commercial Uses</b>		
All commercial uses (except as specified below)	Five spaces per 1,000 square feet of retail or sales floor area.	One space for the first 20,000 square feet of gross floor area and one space for each additional 50,000 square feet of gross floor area.
Hotels and motels.	One space for each room or unit and one space for every non-resident employee.	One space for every 20,000 square feet of gross floor area.
Stores and other retail business establishments	Five spaces for every 1,000 square feet of gross floor area plus one space for every employee.	One space for every 20,000 square feet of gross floor area.
Offices	One space for every 200 square feet of office floor area.	One space for every 20,000 square feet of gross floor area.
Manufacturing or wholesale establishments	One space for every two employees working a shift.	One space for every 20,000 square feet of gross floor area.
Restaurants and bars	One space for every three seats plus one space for every employee.	One space for every 20,000 square feet of gross floor area.
<b>Industrial Uses</b>		
Manufacturing, assembly, processing, research, experimental or testing stations	One space for every one employee working a shift or one space for every 400 square feet of gross floor area, whichever is greater.	One space for every 20,000 square feet of gross floor area.

All off-street parking areas that have parking spaces for more than five vehicles must be effectively screened from adjacent residential uses. All off-street parking areas shall be separated from the right-of-way of any street by means of a sod strip or similar barrier not less

than three feet in width that clearly delineates the parking area from the street. The applicant shall also be responsible for obtaining any permits or approvals that are required from other government agencies, such as the Minnesota Department of Transportation.

**Subd. 12. Joint Parking Facilities.**

- A. Several uses located within the same block or vicinity may share a joint parking area, subject to the review and approval of the Town Board. Each property will still be required to have the number of parking spaces that are required for it by this Section.
- B. The Town Board may, upon receiving a recommendation from the Planning Commission, approve a conditional use permit for one or more properties to provide the required off-street parking facilities by joint use of one or more sites where the total number of spaces provided are less than the sum of the total required for each property, provided that the following conditions are satisfactorily met:
  - 1. The building or use for which the application is being made to utilize the off-street parking facilities provided by another building or use is located within 300 feet of the parking facilities;
  - 2. The applicant is able to show that there is no substantial conflict in the operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed;
  - 3. With the exception of the parking space requirements, the other provisions of this Section and this Ordinance are satisfactorily met.

**Subd. 13. Off-Street Loading Facilities.** Loading space required under this Section shall be at least 50 feet long and 10 feet wide.

**Subd. 14. Central Loading.** Central loading facilities may be substituted for loading berths being located on the individual properties provided the following conditions are met:

- A. Each property served must have direct access to the central loading area without crossing or utilizing any streets at grade level;
- B. Each property will still be required to have the number of loading spaces that are required for it by this Section; and
- C. No properties served by the loading berth(s) shall be more than 500 feet removed from the central loading zone area.
- D. A shared parking lot shall have shared maintenance responsibilities.

## SECTION 14

### GENERAL PROVISIONS

**Subd. 1. Purpose.** The purpose of this section is to establish general development and performance standards to assure compatible developments and land uses; to prevent blight and deterioration; and to enhance the public health, safety and welfare.

**Subd. 2. Drainage and Grading.** The following requirements shall apply to any construction or grading activity that has the potential to impact the natural or artificial drainage systems of the property and the surrounding area.

- A. Stormwater Runoff. No land shall be altered so that it results in surface water runoff that causes flooding, erosion or the deposit of minerals on adjacent properties or water bodies. All stormwater runoff on a property must be properly channeled into a rain garden or ponding area, storm drain, natural water course, drainage way or other public stormwater facility.
- B. Obstruction of Natural Drainage Prohibited. No building permit will be issued by the Town for the construction of any building on which construction or necessary grading thereto will obstruct any natural drainage waterway.
- C. Undrainable Lands. No building permit will be issued by the Town for the construction of any building upon ground which cannot be properly drained.
- D. Protection of Existing Drainage Installations. Where application is made for a building permit and subsequent investigation shows that the property to be occupied by said building is adjacent to a portion of a public road or street containing a drainage culvert, catch basin, sewer, special ditch or any other artificial drainage structure used for the purpose of draining said property or neighboring property, the applicant will be required to protect these waterways in such a way that they are not affected by the construction or grading work.
- E. Order to Regrade. The Town may order an applicant to regrade property: 1) if the existing grade does not conform to any provision of this Ordinance; 2) if the grade indicated in the application has not been followed; or 3) if the grade negatively impacts the drainage on neighboring properties.

**Subd. 3. Waters and Waterway Alteration.**

- A. Protected Water Alteration. Any alteration which will change or diminish the course, current or cross section of a public water shall be approved by the Commissioner of the Minnesota Department of Natural Resources, in accordance with the procedures of Minnesota Statutes, sections 103G.241 and 103G.245, as amended. "Alteration" includes the construction of or any change to a water course; excavation of a lake or stream bottom for removal of muck, silt or weeds; and filling in a lake or stream bed.



- B. Work Permit Required. No person shall cause or permit any waters or waterways to be created, dammed, altered, filled, dredged, or eliminated or cause the water level elevation thereof to be artificially altered without first securing a work permit from the Town and the Minnesota Department of Natural Resources, if required.
1. An application for a work permit required by the provisions of this subdivision shall be made to the Town in writing upon printed forms furnished by the Zoning Administrator.
  2. The application shall be accompanied with a complete and detailed description of the proposed work, together with complete plans and a topographical survey map clearly illustrating the proposed work and its effect upon existing waters and water handling facilities. The application shall also include a copy of the Department of Natural Resources work permit or work permit application, if required.
  3. The Zoning Administrator shall review the work permit application and determine if the proposed work meets the requirements of this Ordinance and any other applicable statutes and regulations. If the proposed work meets the requirements of this Ordinance and any applicable statutes and regulations and a permit from the Department of Natural Resources has been issued, if required, the Zoning Administrator shall issue the work permit. If the Zoning Administrator denies the work permit, he or she shall inform the applicant of the denial in writing.
  4. If the Zoning Administrator denies the work permit, the applicant may appeal the Zoning Administrator's decision to the Town Board. An appeal must be filed with the Zoning Administrator within 10 days of the date of the notice of the denial.

**Subd. 4. Fencing, Screening and Landscaping.** All fences, with the exception of agricultural fences shall be subject to the following requirements.

- A. No fence shall exceed four feet in height if located in the front yard or eight feet in height if located in the side or rear yards. The height of the fence shall be measured from the average point between the highest and lowest grade. Fences erected for security purposes on properties located in the Retail and Service and General Business District. are exempt from this requirement.
- B. No fence, screen or structure which obstructs the view shall be located within 25 feet of an intersection of street or railroad right-of-way.
- C. A fence must be set back at least one foot from all lot lines, unless consent is obtained from the abutting property owner to place the fence on the lot line.
- D. That side of the fence considered to be the face which is opposite the side with the fence posts must face the abutting public or private property.

- E. All perimeter fences shall be constructed of or have the appearance of masonry, brick, wood, steel or chain link. No barbed wire fences, electric fences, hog netting fences, poultry netting fences, sheep netting fences or snow fences are allowed in the Rural Residential, Retail and Service Business District, General Business District and Shoreland District, except for agricultural purposes. No construction security fencing is allowed in any zoning district, except during construction.
- F. In all zoning districts all usable open space, except portions devoted to agricultural purposes, must be planted and maintained with grass, sod, shrubs or other vegetation or treatment.
- G. When screening is required by this Ordinance, it must consist of:
  - 1. A green belt planting strip consisting of vegetative cover of sufficient width and density to provide an effective screen; or
  - 2. A fence constructed of masonry, brick, wood, composite or steel which is compatible with surrounding structures and buildings.

**Subd. 5. Nuisances.** Any visual appearance, noise, odor, heat, dust, vibration, smoke, air pollution, glare, electrical interference, or other such objectionable influence, or the storage of refuse or disposal of wastes, that construed by the Town Board to be a menace or nuisance to the public health, safety or general welfare of the Town, or to have a negative impact upon property values in the area shall be prohibited.

- A. The prohibition of any sewage, industrial waste or other substance is prohibited from being introduced into any well, stream, lake or body of water.
- B. All carcasses of animals shall be buried or destroyed or otherwise disposed of within 48 hours after death.
- C. The ownership, possession or control of any unused appliances or other containers with doors which fasten automatically when closed and of sufficient size to retain any person that are exposed and accessible to the public without the removal of the doors, lids, hinges, or latches or the locking thereof to prevent access by the public, is prohibited.
- D. All structures, landscaping and fencing shall be reasonably maintained so as to avoid health or safety hazards and prevent degradation in the value of adjacent property.

**Subd. 6. Refuse.** All lots within all zoning districts shall be maintained in a neat and orderly manner. No rubbish salvage materials, junk or miscellaneous refuse shall be openly stored or kept in the open when the same is construed by the Town Board to be a menace or nuisance to the public health, safety, or general welfare of the Town, or to have a negative impact upon property values in the area.

**Subd. 7. Lighting.** Any lighting used to illuminate an off-street parking area, sign, yard or structure shall be arranged as to deflect light away from any adjoining residential properties or

uses and from the public streets. Direct or reflected light shall not be directed into any adjoining property. The source of light must be hooded or controlled in some manner so as not to unreasonably illuminate adjacent property. Bare incandescent light bulbs shall not be permitted if they are in full view from adjacent properties or public right-of-way.

**Subd. 8. Vision Clearance at Corners, Curb Cuts and Railroad Crossing.** Notwithstanding any part of this Ordinance or any permit or variance granted, no building, structure or vegetation or any portion thereof shall be placed or retained in such a manner to constitute a traffic hazard or obstruct the line of sight at corners, curb cuts or railroad crossings.

**Subd. 9. Storage and Disposal of Items, Materials and Waste.** The following standards shall apply to storing, handling and disposal of any items, materials or wastes:

- A. No construction equipment or material pertaining to construction shall be stored on any property within the Town without a building permit or land use application. When construction is completed, all construction equipment and materials must be removed within 30 days from the issuance date of the certificate of occupancy.
- B. No use shall be operated so that the storage or disposal of materials or wastes results in any discharges of matter across the boundaries of the lot wherein such use is located or into the air, water or soil as to endanger the public health, safety, comfort or welfare, or causes injury or damage to adjacent properties.
- C. The pollution of any well, stream, lake, or body of water by sewage, industrial waste or other substances is prohibited.
- D. All carcasses of animals must be properly disposed of within 48 hours after death.
- E. The ownership, possession or control of any unused exposed appliances or other containers with doors which fasten automatically when closed that are of sufficient size to retain any person is prohibited.
- F. All structures, landscaping and fencing shall be reasonably maintained so as to not constitute a blighting condition or be a threat to the public health and safety or cause depreciation of the value of adjacent properties.

**Subd. 10. Performance Standards.** All property owners and occupants shall comply with all federal, state and local pollution and nuisance laws and regulations, including, but not limited to, glare, smoke, dust, odors, and noise. The burden of proof for compliance with appropriate performance standards shall lie with the property owner or occupant.

**Subd. 11. Keeping of Non-Domestic Animals and Reptiles.** No person shall keep or permit to be kept on his or her premises any non-domestic animal or reptile for display, for exhibition purposes, whether gratuitously or for a fee, or as a pet. This subdivision shall not be construed to apply to zoological parks, performing animal exhibitions, circuses, pet stores or to

veterinary clinics which are properly licensed by the federal government or the State of Minnesota.

- A. Prohibited Animals. No person shall keep, maintain or harbor any non-domestic animal.
- B. Removal of Non-Domestic Animals. Any person discovered to be keeping or harboring a non-domestic animal in violation of this subdivision, shall upon notice of said violation be given five days to remove said animal. Notice shall not be required where the animal has caused physical harm to a person, poses an immediate threat to public safety in the opinion of the Town Board, or has escaped, in which case the Town shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment is not possible without risk of serious physical harm to any person.

**Subd. 12.** Objects in the Right of Way. Pursuant to Minnesota Statutes, section 160.05, 160.2715, 164.02, 169.072 and 164.36 and such other law as may apply, the Town is the road authority and has the authority to control activities within the Town's road right-of-ways and maintain the right-of-ways in a manner so as to secure the safety of the public. The Town Board has adopted a policy that governs its control of activities within the right-of-way and right-of-way maintenance.

**Subd. 13.** Road Acceptance. Pursuant to this Ordinance and the Subdivision Ordinance, the minimum standard for a road to qualify for acceptance by the Town as a Town road is that the road must have a seven-ton engineered weight capacity. The Town Board will not open and maintain any road dedicated to the public or the Town as a town road except by resolution adopted by the Town Board determining that expending public funds to open and maintain such is in the public interest, the road complies with all applicable Town standards, and all other requirements and conditions imposed by the Town Board regarding the road have been satisfied. To maintain consistency with the current system of roads and to assist in maintenance activities, a road to be dedicated to the Town that outlets onto a gravel road should be gravel and a road that outlets onto a blacktopped road should be blacktopped.

## SECTION 15

### TOWN ROAD RIGHT-OF-WAYS

**Subd. 1.** Purpose. The primary objectives of this Section are to protect public safety, reduce interferences with public travel, protect the public's interest in its rights-of-way, and to provide for the efficient and uniform administration of the Town's road rights-of-way. The Town Board finds that the regulations, requirements, and restrictions, as set forth in this Section, are in the best interests of the health, safety, and welfare of the Town's citizens.

**Subd. 2.** Authority. As a road authority, the Town Board has broad authority to regulate what occurs within the town's road right-of-ways. This authority is found in a variety of sections in chapters 160, 164, 165, 169, 609, and other chapters, as well as the rules associated with those chapters.

**Subd. 3. Delegation of Authority.** This Section shall be administered and enforced by the Town Board. The Town Board may delegate to individuals the authority to administer and enforce this Section, or aspects thereof, on behalf of the Town. Such designees shall have full authority to carry out the duties delegated to them as well as such related powers and duties reasonably necessary to fully execute those delegated duties.

**Subd. 4. Scope.** This Section applies to all Town road rights-of-way, including those dedicated to the public by plat, within the Town. The Town may, with respect to cartways, platted roads, and other dedicated roads that are not maintained by the Town, enforce this Ordinance to the extent the Town Board determines is necessary to preserve or protect its interests. However, any action taken by the Town on such roads shall not constitute its acceptance of the cartway or road for maintenance purposes. This Section does not apply to or otherwise regulate rights-of-way under the jurisdiction of another road authority.

**Subd. 5. Definitions.** For the purposes of this Section, the following terms shall have the meaning given them in this section.

- A. Abandoned vehicle. “Abandoned vehicle” means a motor vehicle, as defined in Minnesota Statutes, section 169.011, subdivision 42, located within a right-of-way that lacks vital component parts or is in an inoperable condition such that it has no substantial potential for further use consistent with its usual functions.
- B. Approach. “Approach” means the area of the right-of-way between the traveled surface of the road and the adjacent property that is intended to provide access for vehicles or equipment from the road to the adjacent property.
- C. Headwall. “Headwall” means rock, concrete, masonry, metal, timber or other similar materials placed on the sides of an approach as support, to prevent erosion, or for decorative purposes.
- D. Junk. “Junk” means old or hazardous signs, copper, brass, rope, rags, batteries, paper, synthetic or organic, trash, garbage, waste materials, rubbish, rubber debris, appliances, waste, or junked, dismantled, or wrecked automobiles or farm or construction machinery or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.
- E. Motor Vehicle or Vehicle. “Motor vehicle” or “vehicle” has the meaning given motor vehicle in Minnesota Statutes, section 169.011, subdivision 42.
- F. Obstruct. “Obstruct” means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.
- G. Parking enforcement officer. “Parking enforcement officer” means a duly elected supervisor of the Town Board. Law enforcement officers shall have all the powers of a parking enforcement officer under this Section.

- H. Person. “Person” means an individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.
- I. Right-of-Way. “Right-of-way” means the entire width between boundary lines of any way or place under the jurisdiction of the Town, including publicly dedicated rights-of-way, when any part thereof is open to the use of the public, as a matter of right, for the purposes of vehicular traffic and is maintained by the Town.
- J. Towing Company. “Towing company” means a person engaged in the business of towing or recovering vehicles by means of a crane, hoist, tow bar, tow line, or dolly.

**Subd. 6. Cultivation**. No person may cultivate, plant, harvest, or maintain agricultural crops, trees, bushes, or shrubs within a right-of-way.

**Subd. 7. Landscaping**. No person may cultivate, plant, or maintain grasses, flowers, vegetables, or other vegetation in any manner that obstructs visibility of a right-of-way or otherwise interferes with, obstructs, or renders dangerous for passage a right-of-way. No person may place watering systems or sprinkler heads within a right-of-way.

**Subd. 8. Obstructions**. No person may place, maintain, or allow any obstruction in a right-of-way other than those specifically permitted by this Ordinance, by state law or rule, or by written approval of the Town Board. Items prohibited by this section include, but are not limited to, fences, posts, structures, piled materials, hay bales, vehicles, trailers, campers, equipment, or any other items that interfere with the safe use or the maintenance of the right-of-way. No person shall park a functioning vehicle in a right-of-way in such a way as to unreasonably interfere with the safe use of a road or the maintenance of the right-of-way.

**Subd. 9. Junk**. No person shall place, discard, deposit, or maintain Junk in a right-of-way.

**Subd. 10. Alteration of Grade**. No person may alter or change the depth or contour of any portion of any ditch or embankment in a right-of-way without written approval of the Town Board.

**Subd. 11. Unauthorized Maintenance**. No person may work, maintain, improve, or repair the traveled portion of a right-of-way without the written approval of the Town Board.

**Subd. 12. Doing Damage**. No person shall cause damage to a right-of-way, whether by a willful act or a failure to exercise due care, without the written approval of the Town Board. Damage prohibited by this section includes obstructing a ditch, culvert, or any related drainage facilities. Any person doing work within a right-of-way with approval of the Town Board shall return the right-of-way to at least the same condition it was in prior to the damage.

**Subd. 13. Mailboxes, Signs and Newspaper Boxes**.

- A. Mailboxes. Mailboxes and newspaper boxes are permitted within a right-of-way if they do not interfere with, obstruct, or render dangerous for passage in a right-of-way. Mailboxes placed within a right-of-way shall comply with all of the standards in Minnesota Rules, chapter 8818 regardless of the speed limit of the adjacent road. The Town Board may remove and replace mailboxes that do not comply with the standards at the owner's expense as provided in Minnesota Statute, section 169.072.
- B. Signs. No sign of any nature may be placed or allowed to remain in any right-of-way except an official traffic sign placed by a governmental authority or other signage expressly permitted by state law.

**Subd. 14. Approaches and Headwalls.**

- A. Approaches (Driveways). No person may construct or reconstruct any approach within a right-of-way without first obtaining a permit from the Town. A person may be required to submit a map or drawing of the existing or proposed approach when seeking approval.
  - 1. A person shall be required to construct or reconstruct an approach that meets these minimum specifications for safety and for adequate drainage of the right-of-way. These specifications include, but are not necessarily limited to, the following standards:
    - a. Culverts within approaches shall be a minimum of 15 inches in diameter and a minimum of 24 feet in length.
    - b. Approach culverts must be constructed of 16 gauge corrugated metal pipe.
    - c. Approach inslope in the ditch at the Culvert shall be no greater than 4:1.
    - d. Only one driveway per roadway is permitted for each residential lot.
    - e. The minimum spacing between approaches connecting to a collector roadway is 150 feet.
    - f. The minimum top width of a residential approach within the right-of-way shall be limited to 24 feet. The top width of a commercial driveway within the right-of-way shall be a minimum of 48 feet.
    - g. The full width of the right-of-way adjacent to the person's property shall be cleared and grubbed prior to the construction of the approach.
      - i. All stumps, roots, logs, and brush shall be removed from the upper 24 inches of the approach roadbed embankment.

2. Waiver. A person may request a waiver from any of the requirements of this subdivision by submitting a written request explaining the standards from which a waiver is sought and the reasons for the waiver to the Town and appearing before the Town Board at a regular meeting.
  3. Non-Compliance. A person who fails to comply with the requirements of this section may be required to remove or reconstruct the unapproved approach at that person's sole expense. The Town may also have the approach removed or reconstructed at the owner's expense.
- B. Culverts. No person may place or replace a culvert within a right-of-way without first obtaining a culvert permit from the Town. A person may be required to submit a map or drawing of the existing or proposed culvert when seeking approval. All new and replacement culverts shall be installed consistent with the Town's applicable standards. A person may be required to install a culvert meeting the specifications set out by the Town Board if the Town Board determines a culvert is necessary for suitable approach to the road and to promote adequate drainage of the right-of-way. These specifications for culverts include, but are not limited to, the following standards:
1. Safety aprons are required on all culverts located at the intersection of a Town road and a collector roadway;
  2. Culverts used in approaches shall be a minimum of 15 inches in diameter and a minimum of 24 feet in length; and
  3. Culverts used in approaches shall be constructed of 16 gauge corrugated metal pipe.
- C. Culvert Replacement. Any person that damages a culvert shall be required to replace the damaged culvert with one sized to convey a discharge equal to or greater than the capacity of the damaged culvert.
- D. Costs. A person constructing or reconstructing an approach to an existing road shall be responsible for paying all of the costs related thereto, including the cost of seeking all necessary approvals and the cost of a culvert if one is required. Property owners are responsible for maintaining, repairing, and replacing as needed all approaches and associated culverts on their property at their own cost.
- E. Headwalls. No person may construct or reconstruct any headwall within a right-of-way.
- Subd. 15. Drainage Affecting Right-of-Way**. No person may install, connect, construct, or reconstruct any drainage system or facility including, but not limited to, ditches, drain tile, culverts, or pipes into, across, or that outlets into a right-of-way without first obtaining a permit from the Town. A person may be required to submit a map or drawing of the existing or proposed drainage system when seeking approval.



**Subd. 16. Parking Restrictions.** Every vehicle parked upon a right-of-way shall comply with the provisions of this section.

A. Prohibitions. No person shall park a vehicle, whether attended or unattended, in a right-of-way in a way which violates any of the following:

1. In a place prohibited by Minnesota Statutes, section 169.32;
2. In a place prohibited by Minnesota Statutes, section 169.34, subdivision 1;
3. So as to interfere with the maintenance of a right-of-way by the town or its authorized contractors. For the purposes of this prohibition, maintenance includes, but is not limited to, snowplowing, grading, seal coating, and bituminous overlay;
4. For longer than 72 consecutive hours from April 1<sup>st</sup> through November 30<sup>th</sup> each year; or
5. In an area designated by Town Board resolution and marked by one or more signs as being a no parking area.

B. Snow Season Parking. It is unlawful for a person to park a vehicle, whether attended or unattended, during the snow season in a way which violates this section.

1. No parking is allowed in a right-of-way when there is an accumulation of 2 or more inches of snow until after the Town has completed plowing it.
2. During periods when less than 2 inches of snow has accumulated, or after the snow has been plowed and snow event has ended, no vehicle may be parked in a right-of-way for more than 12 consecutive hours.

C. Truck Parking. It is unlawful to park a truck in a right-of-way longer than 12 consecutive hours, except when loading or unloading is actively taking place.

**Subd. 17. Abandoned Vehicles.** It shall be unlawful to park, store, leave, or to allow the parking, storage, or leaving of an abandoned vehicle in a right-of-way. Abandoned vehicles create an unsightly condition tending to reduce property values, interfere with the maintenance and safe use of rights-of-way, and constitute an attractive nuisance creating a hazard to the health, safety and welfare of minors.

**Subd. 18. Towing and Impoundment Authorized.** The Town may tow and have impounded a vehicle parked or abandoned in violation of this Section as provided in this section.

A. Parking Enforcement Officers. The duly elected supervisors of the Town Board are individually designated parking enforcement officers for the purposes of this Section and shall have all powers provided such officers under this Section, Minnesota Statutes,

section 169.041, and are authorized to act on behalf of the Town, as a towing authority, for the purposes of Minnesota Statutes, Chapter 168B.

- B. Designating a Towing Company. The Town Board may designate one or more towing companies that a parking enforcement officer may contact to tow a vehicle in accordance with this Section. If one or more towing companies are designated, a parking enforcement officer shall use a designated company to the extent reasonably possible under the circumstances. The Town board may enter into such agreements with the towing companies as it deems necessary to provide for the timely towing and storage of vehicles. A towing company towing or impounding a vehicle pursuant to this Section shall be responsible for impounding and properly storing and safekeeping the vehicle and its contents. Any towing company towing a vehicle upon order of a parking enforcement officer shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances in the towing, storage, and sale or other disposal of the vehicles it tows.

**Subd. 19. Procedure for Towing Vehicles.** A parking enforcement officer shall comply with the following procedures before ordering a vehicle towed pursuant to this ordinance.

- A. Citation and Towing Report. A parking enforcement officer shall issue a citation and towing report (“Report”) regarding the vehicle in violating of this ordinance. The Report shall describe the vehicle, the license plate number, and the reasons for towing. The citation and towing report may be on the same form. The parking enforcement officer and the tow driver shall both sign the Report.
- B. Waiting Period. If the vehicle is not moved or otherwise made to comply with this Section within four hours of the issuance of the Report, the parking enforcement officer may order the vehicle towed.
- C. Immediate Towing. A parking enforcement officer may order the immediate towing of a vehicle, upon the issuance of a Report and without allowing for a waiting period, if it is parked or located so as to:
1. Violate the snow season parking prohibition contained in this Section;
  2. Interfere with snowplowing the traveled portion of a right-of-way;
  3. Block a driveway, alley, right-of-way, or fire hydrant;
  4. Be within 30 feet of a stop sign and visually blocking the stop sign;
  5. Be within a designated no parking area;
  6. Constitutes an accident or traffic hazard to the traveling public as determined by a parking enforcement officer;
  7. Prevent egress by a lawfully parked vehicle; or

8. Violate state law allowing the immediate towing of a vehicle.

D. Notice. Within two days of towing a vehicle, the town or the towing company shall send or otherwise deliver written notice of the towing to the owner and lien holder of the vehicle. If the town provides the notice, it shall provide a copy of the notice to the towing company and if the towing company provides the notice it shall provide the town a copy. If the owner cannot be identified, the notice required by this paragraph shall be published at least once in the town's official newspaper. The notice shall include the following information:

1. The date the vehicle was towed;
2. The place the vehicle was towed from;
3. The year, make, model, and vehicle identification number of the vehicle;
4. Information about the right to reclaim the vehicle and who to contact; and
5. The failure to reclaim the vehicle constitutes a waiver by them of any right, title, and interest in the vehicle and its contents and consent to dispose of both.

**Subd. 20. Retrieving Impounded Vehicles.** An owner shall contact the towing company directly in order to reclaim a vehicle towed and impounded pursuant to this ordinance. The towing company may charge the reasonable costs of services provided in the towing, storage, and inspection of the vehicle before releasing the vehicle. The towing company shall be responsible for requiring sufficient proof of ownership before releasing a vehicle or its contents. A registered owner of a vehicle may retrieve the contents of a vehicle without charge and without retrieving the vehicles when authorized to do so pursuant to Minnesota Statutes, section 168B.07, subdivision 3.

**Subd. 21. Disposal of Unclaimed Vehicles.** The towing company shall be responsible for properly disposing of the unclaimed vehicles impounded pursuant to this ordinance in accordance with the authority provided to impound lots under law to sell or otherwise dispose of impounded vehicles.

**Subd. 22. Utilities in the Right-of-Way.** The installation, maintenance, replacement, and removal of utility lines, equipment, or related facilities within a right-of-way shall be regulated pursuant to Section 16 of this Ordinance.

**Subd. 23. Town and Contractors.** The prohibitions, requirements, and restrictions contained in this Section do not apply to: the Town; Town officers, employees, or agents while operating within the course and scope of their duties for the Town; or contractors while performing services within the scope of a contract with the Town.

**Subd. 24. Permissions and Permits.**

- A. Conditions. The Town may place reasonable conditions and impose reasonable regulations on any permission or permit it issues to do work within a right-of-way. Failure to comply with any condition or regulation may result in the revocation of the Town's permission or permit if the deficiency is not immediately corrected upon notice from the Town.
  
- B. Limitations. Any person receiving permission or a permit from the Town Board as provided in this Section must comply with all applicable federal, state, and local laws and rules as well as all applicable Town ordinances, resolutions, specifications, regulations, and policies. The person shall also comply with all conditions, requirements, and limitations the Town Board expresses as part of the permission or permit. Any person doing work within a right-of-way shall be responsible for posting such signs, barricades, or other warning signs as may be required to notify the traveling public of any hazards created by the work and shall take such other measures as may reasonably be required to protect public safety.
  
- C. Indemnification. Any person doing work within a right-of-way with permission or upon a permit issued by the Town agrees, as a condition of such permission or permit, to indemnify, defend, and hold the Town, its officers, employees, and agents harmless from all claims, suits, penalties and costs, including defense costs, the Town, its officers, employees, or agents may incur or be required to pay arising out of or in any way related to the work. Nothing in this ordinance shall constitute or be deemed a waiver of the limitations on or exemptions from liability available to the Town under Minnesota Statutes, Chapter 466 or otherwise. Additionally, the granting of permission or a permit shall not constitute a joint venture or joint enterprise between the person and the Town.

**Subd. 25. Dedications.** The Town shall not assume the responsibility to maintain any right-of-way dedicated to the Town or the public, whether by plat or otherwise, until it is built to Town specifications, all conditions the Town Board may have imposed related to the acceptance of the road have been complied with to the satisfaction of the Town Board, and the Town Board passes a resolution determining that spending the Town's funds to maintain the road is in the public interest.

**Subd. 26. Fees.** The Town Board shall establish, by resolution, fees for all permits required by this Section. The Town Board may amend its fee schedule by resolution at any regular meeting.

**Subd. 27. Enforcement and Penalty.**

- A. Violation. A violation of any section or requirement of this Section is prohibited and shall constitute a public nuisance. The person or persons violating this Section shall be subject to the penalties provided herein and shall be responsible for abating the nuisance, including the reimbursement of all costs the Town may incur to abate or otherwise respond to the nuisance.

- B. Correction Order. Upon discovery of a violation of this Section, the Town Board may issue a correction order to the violator, in person or by U.S. Mail, ordering the person to correct the violation by a time certain. If the address of the violator is not known, or if the property is not occupied, the Town will provide notice of the order by posting same on the property. If the violator fails to comply with the correction order by the time indicated in the order, which in no case shall exceed 30 days, the Town Board may provide for the correction of the violation. Issuance of a correction order does not preclude imposition of the penalties set forth in this Section.
- C. Immediate Correction. If the Town Board determines that the violation creates an immediate threat to public safety, the Town Board will make a good faith effort to notify the violator to immediately correct the situation. If the Town Board is not able to promptly contact the violator, or if the violator fails to immediately correct the situation upon notification, the Town Board may provide for the correction of the violation as it determines is appropriate.
- D. Cost of Correction. The cost of correcting a violation shall be the responsibility of the violator. If the Town Board provides for the correction of the violation, all expenses incurred, including reasonable attorney's fees shall be billed to the violator. If the bill is not paid in full by the due date, the Town Board may exercise any options available to it under law to collect the amount due including, but not limited to, imposing the costs on the violator's property as a service charge pursuant to Minnesota Statutes, section 366.012.
- E. Penalty. Any person who violates this Section shall be guilty of a misdemeanor and subject to the penalties for such as provided in State law, except that a violation of the parking restrictions contained herein shall be a petty misdemeanor. Each day of existence of such violation shall constitute a separate offense. If convicted, the person may be assessed costs of prosecution as allowed by Minnesota Statutes, section 366.01, subdivision 10.

**Subd. 28. Savings Clause.** The failure of the Town Board to exercise, and any delay in exercising, any right under this Section, including enforcement, shall not operate as a waiver thereof and shall not constitute a waiver of the Town's interest, however created, in any right-of-way, easement, or any other type of property interest.

**Subd. 29. Road Acceptance.** Pursuant to this Ordinance and the Subdivision Ordinance, the minimum standard for a road to qualify for acceptance by the Town as a Town road is that the road must have a seven-ton engineered weight capacity. The Town Board will not open and maintain any road dedicated to the public or the Town as a town road except by resolution adopted by the Town Board determining that expending public funds to open and maintain such is in the public interest, the road complies with all applicable Town standards, and all other requirements and conditions imposed by the Town Board regarding the road have been satisfied.

## SECTION 16

### UTILITIES WITHIN ROAD RIGHT-OF-WAYS

**Subd. 1.**     **Purpose.** It is the purpose of this Section is to establish reasonable regulations, requirements, and restrictions regarding the use of Town right-of-ways in order to protect the health, safety and welfare of Town residents, those traveling on Town roads, and the general public. It is also the purpose of this Section to protect the cumulative investment the public has made to construct, maintain, and improve the Town’s roads by requiring those undertaking utility projects in and near the Town’s right-of-ways to obtain a permit from the Town and to be responsible for restoring the right-of-ways directly or indirectly impacted by the project to at least the same or better condition they were in prior to the project. Finally, this Section provides for the recovery by the Town of its actual expenses incurred related to such projects.

**Subd. 2.**     **Authority.** As the road authority for the Town’s roads, the Town Board has the authority and responsibility to provide for safe and efficient local roadways and to establish regulations governing the use and maintenance of Town roadways and public right-of-ways. This Section is adopted consistent with that authority as well as the authority provided the Town Board pursuant to 1997 Session Laws, Chapter 123, Minnesota Statutes, sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086, Minnesota Statutes, sections 164.36, 169.832, 169.87, and the other laws governing applicable rights of the Town and users of the right-of-way. This Section shall be interpreted consistent with those statutes as well as with Minnesota Rules, parts 7819.0050 – 7819.9950 where possible. This Section shall not be interpreted to limit the regulatory and police powers of the Town to adopt and enforce general Sections and policies necessary to protect the health, safety and welfare of the public.

**Subd. 3.**     **Elect to Manage.** The Town Board hereby elects, pursuant to Minnesota Statutes, section 237.163, subdivision 2, to manage the Town’s right-of-ways under its jurisdiction under Minnesota Statutes, sections 237.162 and 237.163, and all other applicable laws, for the purposes of Minnesota Rules, chapter 7819.

**Subd. 4.**     **Definitions.** For the purposes of this Section, the following terms shall have the meaning given them in this section.

- A.   **Abandoned Facility.** “Abandoned facility” means a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.
- B.   **Applicant.** “Applicant” means a person who submits a permit request for an excavation permit or an obstruction permit in accordance with this Section.
- C.   **Degradation.** “Degradation” means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.

- D. Degradation Cost. “Degradation Cost” subject to Minnesota Rules, part 7819.1100, means the cost to achieve a level of restoration, as determined by the Town at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules, parts 7819.9900 to 7819.9950.
- E. Degradation Fee. “Degradation Fee” means the estimated fee established at the time of permitting by the Town to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.
- F. Delay Penalty. “Delay Penalty” is the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.
- G. Emergency. “Emergency” means a condition that: (1) poses a danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.
- H. Excavate. “Excavate” means to dig into, trench, or in any way remove, physically disturb, or penetrate a part of the right-of-way.
- I. Excavation Permit. “Excavation permit” means the permit which, pursuant to this Section, must be obtained before a person may excavate in a right-of-way. An excavation permit allows the holder to excavate that part of the right-of-way described in such permit.
- J. Facility. “Facility” or “facilities” mean any tangible asset in the right-of-way required to provide utility service.
- K. Obstruct. “Obstruct” means to hinder the free and open passage of any portion of a right-of-way for more than two hours or on more than one lane of traffic.
- L. Obstruction Permit. “Obstruction permit” means the permit which, pursuant to this Section, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein.
- M. Permit Request. “Permit request” means a request to obtain an excavation permit or obstruction permit made on the Town Board’s approved application form or, if none, in a writing containing all of the information required by this Section.
- N. Permittee. “Permittee” means a person to whom the Town Board has issued an excavation permit or obstruction permit under this Section.

- O. Person. “Person” means an individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.
- P. Restore or Restoration. “Restore” or “Restoration” means the process by which an excavated right-of-way and surrounding area, including the travelled surface, shoulders, foundation, ditches and other drainage structures, and approaches, is returned to the same condition and life expectancy that existed before excavation.
- Q. Right-of-Way. “Right-of-Way” means the area on, below, or above a public road, highway, street, cartway, bicycle lane or public sidewalk in which the Town has an interest, including other publicly dedicated right-of-ways for travel purposes and utility easements of the Town. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.
- R. Right-of-Way User. “Right-of-way user” means: (1) a telecommunications right-of-way user as defined by Minnesota Statutes, section 237.162, subdivision 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or Section to use the public right-of-way.
- S. Town. “Town” means Arthur Township, Kanabec County, Minnesota.
- T. Town Board. “Town Board” means the board of supervisors of Arthur Township, Kanabec County, Minnesota.

**Subd. 5. Permit Required.** Except in emergencies, no person may excavate or obstruct a right-of-way without first obtaining a permit from the Town Board. An excavation permit is required to excavate any portion of a right-of-way for the purpose of placing, repairing, relocating, or removing facilities. An obstruction permit is required to obstruct a right-of-way in any way related to the placement, repair, relocation, or removal of facilities. To obtain a permit, a person must provide the town clerk, or designee, a written permit request for the proposed excavation or obstruction. If a proposed excavation project includes an obstruction at the same site, an applicant need not submit a separate permit request for an obstruction permit if the request for the excavation permit includes a description of the proposed obstruction. In such cases, the Town Board may issue a combination excavation/obstruction permit.

- A. Exclusions. The Town, its agents, and contractors performing work for the Town shall not be required to obtain permits from the Town to excavate or obstruct a right-of-way. Contractors performing work for the Town shall be required to erect and maintain such signs and other traffic control devices as are necessary to warn of the work and to protect public safety.

**Subd. 6. Permit Requests.** Requests for an obstruction or excavation permit must be made on the application form adopted by the Town Board. If the Town Board has not adopted



an application form, permit requests must be in writing and contain at least the following information:

- Name, address, phone number, and fax number of the applicant;
- Name, address, phone number, and e-mail address of a local representative that will serve as the designated contact person on behalf of the applicant;
- Name, address, phone number, and fax number of any sub-contractors that will be performing any part of the excavation or obstruction;
- A written description of the work to be performed in the right-of-way at each location including whether the work will involve excavation and/or the obstruction of a right-of-way;
- A scaled drawing showing the specific location of the work to be performed and the location and approximate depth of any facilities installed within a right-of-way;
- How the applicant intends to restore the right-of-way
- The start and completion dates for the work at each location; and
- Certificate of insurance showing, at a minimum, the amount of general liability coverage carried by the applicant and any contractors or subcontractors that will be performing any work within a right-of-way.

A. **Incomplete Requests.** If a permit request received by the Town Board is incomplete, the Town Board will notify the applicant within 15 days of the information that is needed in order to complete the request. Incomplete permit requests are invalid and shall be deemed rejected unless all the required information is submitted to the Town Board within 30 days of the date the Town Board notified the applicant its permit request was incomplete.

B. **Permit request Fee.** All permit requests must be accompanied by a permit request fee as established by the Town Board, which shall include any outstanding amounts related to any prior obstructions or excavations by the applicant in the Town. The purpose of this fee is to compensate the Town Board for all costs associated with reviewing and considering the permit request. A permit request is not complete and shall not be considered by the Town unless it is accompanied by the required fee.

**Subd. 7. Indemnification.** By making a permit request an applicant agrees to, and all excavation and obstruction permits are issued on the condition that a permittee, defend and indemnify the Town in accordance with the provisions of Minnesota Rules, part 7819.1250.

**Subd. 8. Automatic Permit.** A permit request shall be deemed approved, and the requested permit automatically issued, if the Town Board does not notify the applicant that the application is incomplete or that the proposed excavation or obstruction requires the issuance of a written permit. Notice of the need to obtain a written permit shall be provided within the following number of days from the date the Town Board received the applicant's completed permit request: 15 days if the applicant intends to fully restore the right-of-way; or 30 days if the applicant indicates an intent to pay a degradation fee in lieu of restoring the right-of-way. The

automatic approval provided under this section applies only to the specific work, location, and period of time described in the permit request.

**Subd. 9. Written Permit.** If the Town Board notifies an applicant of the need to obtain a written permit, the applicant may not undertake the proposed excavation or obstruction until the Town Board issues the applicant a written permit. The Town Board will require a written permit if, in its sole discretion, it determines the potential impact on the public or right-of-way requires additional review or safeguards. When considering permit requests requiring a written permit, the Town Board may condition the issuance of a written permit on the applicant: providing the Town Board with additional information; providing a completion certificate as authorized in Minnesota Rules, part 7819.1300; providing the Town a construction performance bond with a term of at least 24 months as authorized by Minnesota Rules, part 7819.3000 before the excavation occurs; require the restoration of the right-of-way be performed in accordance with Town Board established specifications and drawings; and complying with such other reasonable requirements as the Town Board may determine are necessary to protect the public health, safety, and welfare or the right-of-way and its current uses.

- A. **Written Permit Fee.** When a written permit is required, the applicant is required, in addition to paying the permit request fee, to reimburse the Town Board for the actual costs it incurs related to issuing the permit including, but not limited to, costs of reviewing the request, conducting inspections, hiring professionals, and other costs actually incurred that exceed the permit request fee and that directly relate to the applicant's request. The Town Board shall provide the applicant a written statement of costs incurred. Payment in full of the written permit fee is due upon receipt of the statement and must be received by the Town Board no later than 20 days from issuance of the statement. In the alternative, the Town Board and the applicant may agree to an advanced payment of the written permit fee. Failure to pay the written permit fee within the required period shall result in the immediate suspension of the permit and may result in the revocation of the permit as provided herein.

**Subd. 10. Limitations.** Permitted excavations or obstructions are limited to the area and time periods described in the permit request or written permit. A permittee must seek a new permit if it wishes to excavate or obstruct outside of the originally permitted work area or timeframe.

**Subd. 11. Delay Penalty.** A permittee that does not complete its obstruction, excavation, or restoration of the right-of-way at a particular location within 10 days of the completion date shall pay the Town a delay penalty for each day of delay. If a permittee is able to establish to the Town Board that one or more days of the delay was caused by circumstances beyond its control, such as bad weather or other circumstances constituting *force majeure*, the delay penalty shall not apply to those days of the delay.

**Subd. 12. Telecommunication Facilities.** Telecommunication facilities to be installed in a right-of-way shall be installed according to the requirements set out in Minnesota Rules, part 7819.5000 in addition to all other applicable federal, state, and local requirements.

**Subd. 13. Gas and Electric Facilities.** Gas and electric facilities to be installed in a right-of-way shall be installed according to the requirements set out in Minnesota Rules, part 7819.5100 in addition to all other applicable federal, state, and local requirements.

**Subd. 14. Restoration Required.** A permittee must restore the right-of-way to at least the same condition that existed before the excavation, including the restoration of vegetative cover as needed. If there is a dispute as to the level of restoration required, the permittee shall restore the right-of-way according to the applicable standards established in plates 1 to 13 set out in Minnesota Rules, parts 7819.9900 to 7819.9950.

- A. Correct Defects. Upon notice by the Town Board, a permittee shall correct any defects in the work it performs to restore a right-of-way. The work to correct the defects shall be completed within 7 days of the notice. If the permittee is not able to complete the corrective work within 7 days because of circumstances beyond its control, the permittee shall complete the work as soon as is reasonably possible, which in no case shall exceed 14 days.
- B. Failure to Restore or Correct Defects. If a permittee fails to restore the right-of-way within five calendar days after the completion of an excavation, or fails to correct defects as provided herein, the Town Board has the option of restoring the right-of-way or correcting the defects according to the standards established in plates 1 to 13 set out in Minnesota Rules, parts 7819.9900 to 7819.9950. The Town shall provide a statement of its actual costs for restoring, or correcting defects, to the right-of-way to the permittee. Payment in full of the statement is due upon receipt and must be received by the Town Board no later than 20 days from the date of the statement. If the permittee fails to pay the billed amount, the Town may exercise its rights under the construction performance bond or pursue such other options as are available to it under law to recover its costs.

**Subd. 15. Additional Limitations.** A permittee shall comply with all of the following.

- A. Compliance with Other Laws. Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the Town or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws including, but not limited to, Minnesota Statutes, sections 216D.01-.09 (Gopher One Call Excavation Notice System), and Minnesota Rules, chapter 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.
- B. Prohibited Work. Except in an emergency, and with the approval of the Town, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

- C. Interference with Right-of-Way. A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the ditches or other drainage structures shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with Town parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit, and without interfering with the safe use of the right-of-way by the public.
  
- D. Trenchless Excavation. As a condition of all applicable permits, permittees employing trenchless excavation methods including, but not limited to, horizontal directional drilling, shall follow all requirements set forth in Minnesota Statutes, Chapter 216D; Minnesota Rules, chapter 7560; and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the Town.

**Subd. 16. Permit Denial.** The Town Board may deny a permit request if the applicant has failed to pay any fees, penalties, or other amounts due as the result of previous excavations or obstructions unless the failure to pay is based on a good faith dispute over the amount owed. If the amount owed the Town is in dispute, an applicant can become eligible to submit an additional permit request by placing the full amount the Town claims is still owed in escrow until the dispute is resolved. The Town Board may also deny a permit request for failure to meet the requirements of this Section or if it determines the denial is necessary to protect the public health, safety, and welfare.

**Subd. 17. Warning Signs.** A permittee shall supply, place, and maintain warning signs as needed to warn the public of its excavation or obstruction. A permittee shall comply with the standards established by the Minnesota Department of Transportation in determining the need for signage, the type of signs, and their location.

**Subd. 18. Notice of Completion.** A permittee shall notify the Town when the work conducted pursuant to any permit issued hereunder is complete.

**Subd. 19. Site Inspection.** A permittee shall make its work-site available at all reasonable times to Town representatives to conduct inspections of the site during the work and at its completion.

**Subd. 20. Town Authority.** At the time of inspection, the Town may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public. The Town may also issue a notice of noncompliance to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The notice shall state that the failure to correct the violation will be cause for revocation of the permit. Within 10 days after issuance of the notice, the permittee shall present proof to the Town that the violation has been corrected. If such proof has not been presented within the required time, the Township representative may revoke the permit as provided herein.

**Subd. 21. Permit Revocation.** The Town Board may issue an order revoking a permit if a permittee fails to comply with a noncompliance notice or is conducting the work in such a way as to pose an unreasonable risk to the public. An order revoking a permit must state the specific items of noncompliance and is effective four days from the date of issuance if the permittee does not come into full compliance and otherwise corrects the items stated in revocation order. If the Town Board revokes a permit, it shall provide for the restoration of the right-of-way and the permittee shall pay all costs the Town incurs associated with the restoration to the standards established in plates 1 to 13 set out in Minnesota Rules, parts 7819.9900 to 7819.9950. If a permit is revoked, the permittee shall also reimburse the Town for the Town's reasonable costs, including restoration costs, the costs of collection, and reasonable attorneys' fees incurred in connection with such revocation.

**Subd. 22. Emergencies.** An excavation or obstruction permit is not required in order for a person to respond to emergencies related to their facilities. However, within two business days after the occurrence of the emergency, the person shall apply for the necessary permits, pay the fees associated with those permits, and comply with the requirements to obtain those permits and of this Section.

**Subd. 23. Work Done Without a Permit.** Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by the Town, deposit with the Town the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this Section.

**Subd. 24. Relocation of Facilities.** A person is required, at its own expense, to promptly and permanently remove and relocate its facilities in the right-of-way when it is necessary to prevent interference in connection with: the Town's present or future use of the right-of-way for a public project; the public health, safety, and welfare; or the safety and convenience of travel over the right-of-way. A person shall also pay for the relocation of its facilities upon the vacation of the right-of-way as provided for in Minnesota Rules, part 7819.3200, subp. 2.

**Subd. 25. Right-of-Way Vacation.** If the Town Board vacates all or a portion of a right-of-way containing facilities and the vacation does not require the relocation of those facilities, the Town Board shall, except when it would not be in the public interest, reserve to and for itself and all those having facilities in the vacated right-of-way, the right to install, maintain, and operate facilities in the vacated right-of-way and to enter upon the right-of-way at any time to reconstruct, inspect, maintain, or repair the facilities.

**Subd. 26. Abandoned Facilities.** A person is required to remove any of its abandoned facilities in conjunction with other right-of-way repair, excavation, or construction unless expressly waived in writing by the Town Board in a specific situation upon the request of the person.

**Subd. 27. Fees and Penalties.** All fees and penalties provided for in this Section shall be established from time to time by Town Board resolution in compliance with Minnesota Rules, part 7819.1000 and made available to the public upon request. Unless indicated otherwise in a

franchise, the fees and penalties provided for herein are in addition to any franchise fees a permittee may be required to pay. All fees, penalties, and other charges imposed under this Section are non-refundable.

**Subd. 28. Notices.** For the purposes of the Town Board providing notice under this section, the Town Board shall be deemed to have satisfied its notice obligation if it provides the required period of notice by mail, fax, or e-mail to the applicant's designated local representative.

**Subd. 29. Appeal.** A right-of-way user that: (1) has been denied a permit; (2) has had a permit revoked; (3) believes that the fees imposed are not in conformity with Minnesota Statutes, section 237.163, subdivision 6; or (4) disputes a determination of the Town regarding compliance with this Section or of permit conditions, may have the denial, revocation, fee imposition, or decision reviewed by the Town Board upon a written notice of appeal detailing the reasons for the appeal and the relief being sought submitted within 14 days of the decision or action being appealed. The Town Board shall act on a timely written appeal at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the Town Board affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

**Subd. 30. Delegation.** The Town Board may delegate authority to administer and enforce all or any aspect of this Section to one or more supervisors, employees, contractors or agents as it deems appropriate.

## SECTION 17

### SIGN REGULATIONS

**Subd. 1. Purpose and Intent.** It is not the purpose or intent of this Section to regulate the message displayed on any sign; nor is it the purpose or intent of this Section to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this Section is to:

- A. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the Town in order to promote the public health, safety and welfare;
- B. Maintain, enhance and improve the aesthetic environment of the Town by preventing visual clutter that is harmful to the appearance of the community;
- C. Improve the visual appearance of the Town while providing for effective means of communication, consistent with constitutional guarantees and the Town's goals of public safety and aesthetics;
- D. Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the Town; and

- E. Provide for the safety of the traveling public by limiting distractions, hazards and obstructions.

**Subd. 2. Definitions.** The following words, terms and phrases, when used in this Section, will have the following meanings:

- A. Alteration. Any structural change, excluding routine maintenance or changing the text of an existing sign.
- B. Billboard. A sign on which lettered, figured or pictorial matter is displayed, which has a display surface area of 250 square feet or more.
- C. Building Sign. A sign attached to the outside of a building wall, roof, canopy or awning.
- D. Display Surface Area. The entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double-faced or V-type sign structure will be used in computing total display surface area. If the angle between the display surfaces of such a sign exceeds 10 degrees, the total area of both display surfaces shall be added together to compute the total display surface area.
- E. Double-faced Sign. A freestanding sign or structure that has two display surfaces that are designed to be seen from different directions, are located on the same structure, and the angle between the display surfaces does not exceed 10 degrees. If the angle of the display surfaces exceeds 10 degrees, the total display surface area of both surfaces shall be added together and shall not exceed the maximum allowable display surface area permitted for that zoning district.
- F. Freestanding Sign. A sign supported by one or more upright poles, columns, or braces, placed in or on the ground and not attached to any building or structure.
- G. Monument Sign. Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and solid from the grade to the top of the sign structure and is typically encased or supported by masonry materials.
- H. Off-Premise Sign. A commercial speech sign which directs the attention of the public to a business not on the same lot or site where such a sign is located.
- I. Portable Sign. A non-permanent sign that is not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; balloons used as messages; umbrellas with messages; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicles are used in the normal day-to-day

operations of the business. This definition does not include those signs defined in this section as sandwich board signs.

- J. Projecting Sign. A sign that projects from the wall of a face of a building or structure, including an awning, canopy or marquee.
- K. Roof Sign. A sign erected upon the roof of a structure to which it is affixed or a sign painted on the roof of a structure.
- L. Sandwich Board Sign. A freestanding temporary sign, with no moving parts or flashing lights, no larger than eight square feet total display surface area per side (no taller than four feet from grade); displayed outside an establishment during business hours. It is not intended to constitute permanent business signage.
- M. Sign. Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message, or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.
- N. Temporary or Portable Sign. A non-permanent sign erected, affixed or maintained on-premise for a limited period of time.
- O. Window Sign. A sign attached to, placed upon or painted on the interior of a window that is visible from the exterior of the building, including signs that are placed on the backs of shelving units or similar structures, or interior walls where the sign is located less than seven feet from the window's surface.

**Subd. 3. Permits Required.** Except as otherwise provided in this Ordinance, no sign shall be erected, constructed, altered, rebuilt, or relocated until a sign permit has been issued by the Town. No signs shall be erected along a state trunk highway without obtaining a permit from the Minnesota Department of Transportation.

- A. General Information. Signs requiring a permit shall be subject to the following.
  - 1. All signs requiring a permit will be required to pay an application fee as specified by the Town's fee schedule.
  - 2. In addition to a sign permit, an electrical permit must be obtained for illuminated signs.
  - 3. Except as otherwise stated herein, a permit will be valid for the life of the sign.
- B. Application. Application for a sign permit must be made on the forms provided by the Town, filed with the Town and must include the following information:



1. The name, address and telephone number of the applicant;
  2. The name, address and telephone number of the person or entity erecting the sign, if not the applicant, or the name of the person on whose property the sign is to be located, if not the applicant's;
  3. Letter from the owner of the property where the sign is to be located giving the owner's written permission to have the sign erected on the owner's property;
  4. A site plan drawn to scale showing the location of lot lines, all existing and proposed structures, parking areas, existing and proposed signs and any other physical features;
  5. A detailed dimensional drawing of the proposed sign including the height, description of the sign structure, materials to be used, including colors and method of attachment to the building, if applicable;
  6. Payment in full of the required application fee, as set by the Town's fee schedule;
  7. Copies of stress sheets and calculations indicating the sign is properly designed for dead load and wind pressure in any direction;
  8. A statement as to whether or not the sign will be illuminated or if the sign will contain any type of dynamic display;
  9. A statement as to whether the sign will be single-faced, double-faced or multi-faced; and
  10. Such other information as the Town may require to show compliance with this Section and all other applicable laws, ordinances and regulations.
- C. Inspections. A sign requiring a permit shall be subject to an initial inspection by the Town to determine whether the sign conforms to the provisions of this Section, the permit application and other applicable laws, ordinances and regulations, including, but not limited to, the sign's location, size, footings, structural design and materials used.
- D. Permit Issuance. Upon the filing of a complete permit application, the Town shall review the application materials submitted. If the proposed sign complies with this section and other applicable laws, ordinances and regulations, the Town shall issue a permit for the sign.

**Subd. 4. Prohibited Signs.** The following types of signs are prohibited within the Town:

- A. Signs within the public right-of-way or on publicly owned land that are not posted by authorized government officials or otherwise permitted by this Section;

- B. Signs painted, attached, or in any manner affixed to trees, shrubs, rocks or similar natural surfaces, or attached to public utility poles, bridges or similar public structures, not including public water storage facilities;
- C. Roof signs;
- D. Signs located on property that do not have the written consent of the property owner; and
- E. Signs which do not conform to the property line setback of the underlying zoning district.
- F. Dynamic signs are prohibited.

**Subd. 5. Portable, Temporary, Sandwich Board and Window Signs.**

- A. Portable or temporary signs are allowed by permit only in the business zoning districts. No permit will be issued by the Town for a portable or temporary sign on a lot for a duration of more than 45 days within a calendar year.
  - 1. There shall be no more than one portable or temporary sign on any lot at a time.
  - 2. The sign shall not exceed 32 square feet in total display surface area and have a maximum of two sides.
  - 3. Signs must be removed immediately after the event advertised has passed.
  - 4. Signs shall not be placed in the public right-of-way, have a dynamic display or be fastened to any pylon or light pole.
  - 5. Sandwich board signs shall be allowed by permit only in all zoning districts within the Town except in agricultural and residential districts.
    - a. All sandwich board signs require a sign permit which must be obtained prior to placement of the sign. Sandwich board sign permits are valid from the date of issuance until December 31<sup>st</sup> of each year. Sandwich board sign permits shall not be transferable. A copy of the approved sign permit for the sandwich board sign shall be attached to the sign at all times. Sandwich boards signs that do not comply with this requirement may be removed and disposed of by the Town.
    - b. Only one sandwich board sign is allowed for each entity.
    - c. Sandwich board signs must not exceed eight square feet in display surface area per side.
    - d. Sandwich board signs may be placed on a public sidewalk or within the public right-of-way provided that the sign owner agrees to indemnify the

Town with respect to the sign and signs a waiver to this effect. Upon application for a sign permit, the sign owner must provide the Town with a certificate of insurance that covers the Town property in which the sign will be placed and the value of sign. The Town must be named as an “additional insured” on the certificate of insurance. If placed on a sidewalk, a sandwich board sign shall not take up more than two feet of sidewalk width and shall not be placed in the middle of the sidewalk.

- e. Sandwich board signs may be removed by the Town if they interfere with any Town activities, including, but not limited to, snow removal or maintenance of the surrounding area. No sandwich board sign shall be displayed overnight or when there has been any snow accumulation. Sandwich board signs that do not comply with this requirement may be removed and disposed of by the Town.
- f. Sandwich board signs shall be displayed only during the times that the entity is open.
- g. Sandwich board signs must either be weighted down or removed when there are wind gusts of 20 m.p.h. or greater.
- h. Under no circumstances shall a sandwich board sign be used instead of permanent building signage.

**Subd. 6. Exemptions.** The following signs do not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its compliance with the provisions of this Section or any other law or ordinance regulating the same.

- A. Signs within the public right-of-way or publicly owned land that are posted by authorized government officials.
- B. Signs located within a business, office, mall or other enclosed area that cannot be seen from the outside.
- C. Signs permitted by Minnesota Statutes, section 211B.045.
- D. Up to three flags containing non-commercial speech only may be displayed upon a lot. Each non-commercial speech flag must not exceed 100 square feet in size in display surface area.
- E. Handicapped parking signs.
- F. One sign with a commercial message on a residentially or agriculturally zoned property that does not exceed 16 square feet per display surface area may be placed in the front yard of the property. One sign with a commercial message on a commercially zoned property that does not exceed 32 square feet per display surface area may be placed in the front yard

of the property. This sign must be removed within 10 days after the closing date of the sale or lease of the property.

- G. One sign with a commercial message that does not exceed 100 square feet of surface per display surface area (with a maximum of two sides) may be placed upon a construction site. This sign must be removed within 10 days after the closing date of the sale of the last lot.
- H. One sign smaller than five square feet in display surface area may be posted on any parcel of land, except that such sign may not be an off-premises sign and may not be illuminated or contain any dynamic displays.
- I. Window Signs are permitted in street facing windows of commercially zoned buildings provided they do not exceed 25 percent of the window area that has street frontage.

**Subd. 7. Conditions Applying to Signs in all Zoning Districts.**

- A. No sign shall be erected which will obstruct a driver's view of pedestrian, bicyclist, equestrian, or motor vehicle traffic.
- B. No sign shall be erected which by reason of position, shape or color, would detract from or otherwise interfere with the proper functioning of a traffic-control sign or signal.
- C. No sign shall be erected that resembles any official marker erected by a governmental agency except signs posted by authorized government officials.
- D. No sign shall be permitted to obstruct any window, door, fire escape, stairway, or opening intended to provide light, air, ingress or egress for any building.
- E. The minimum clearance of any sign from unprotected electrical conductors shall be not less than 36 inches for conductors carrying not over 600 volts and 48 inches for conductors carrying more than 600 volts.
- F. No sign shall project higher than 40 feet above the grade at the place where the sign is located, if freestanding, or above the height of the building to which it is attached.
- G. No sign shall be erected or maintained on private property without written permission from the owner.
- H. No freestanding or monument signs erected on private property shall encroach onto public property.
- I. Where a sign is illuminated, the source of light shall not be directed upon any part of a residence or into any residential zoning district and the light source must also be shielded. All signs installed after the effective date of this Section that will have illumination by means other than natural light must be equipped with a mechanism that automatically

adjusts the brightness in response to ambient conditions. These signs must also be equipped with a means to immediately turn off the display or lighting if it malfunctions, and the sign owner or operator must immediately turn off the sign or lighting when notified by the Town that it is not complying with the standards of this Section.

- J. All signs must incorporate materials and colors which are compatible with the building upon which the sign is located. "Compatible" means materials which are consistent with the principal architectural features and colors of the building(s) being identified. All signs must be of good quality, and must be designed to include attractive and tasteful colors and design elements. The layout of the sign must give the sign a neat and orderly appearance.
- K. Any sign alteration will require an amended sign permit.
- L. The owner of any sign which is otherwise allowed by this section may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting by the Town. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any other more specific provision to the contrary.

**Subd. 8. Construction Standards.**

- A. Generally. The supports for all signs or sign structures shall be placed in or upon private property and shall be securely built, constructed and erected in conformance with the requirements of this Section and all other applicable laws, ordinances and regulations.
- B. Materials. Materials for construction of signs and sign structures shall be of the quality and grade as specified for buildings in the Minnesota State Building Code.
- C. Signs Requiring Electricity.
  - 1. Signs requiring electricity shall meet the requirements specified by the National Electric Code, as adopted and amended by the Town.
  - 2. The enclosed shell of signs requiring electricity must be watertight, excepting that service holes fitted with covers must be provided into each compartment of such signs.
  - 3. Every sign requiring electricity must identify the name of the sign erector and date of erection. The information must be located on the sign or sign structure, must be readable from the ground, and must be of a durable material sufficient to reasonably withstand the elements.
  - 4. Electrical service to the sign must be underground.

- D. Maintenance and Repair. All signs shall be maintained in good state of repair and free from rust, corrosion, loose or flaking paint, worn or damaged materials, rotted wooden members and loose or missing parts. Signs shall not remain in a defaced state. A sign or sign structure that is not being maintained or is unsafe as determined by the Zoning Administrator shall be repaired or removed by the owner of the property or building on which it is erected upon receiving notification by the Town.

**Subd. 9. Signs in the “A-R”, “R-R”, “A-T” and “S” Districts.** The following signs are permitted in the “A-R”, “R-R”, “A-T” and “S” zoning districts:

- A. One building sign for each dwelling unit is permitted. Such sign shall not exceed 2 ft X 3ft. for 6 feet square in display surface area. No sign shall have more than two sides. A sign permit is not required.
- B. One building sign for each dwelling group of three or more dwelling units is permitted. Such sign shall not exceed three square feet in display surface area. No sign shall have more than two sides. A sign permit is not required.
- C. Multi-family dwelling groups of six or more units are allowed one freestanding or monument sign not more than 32 square feet in display surface area per side. The sign must be set back at least 10 feet from all property lines and the right-of-way. Dynamic displays are not permitted. A sign permit is required.
- D. One building sign is allowed for each non-residential use operating pursuant to an interim use or conditional use permit. Such sign shall not exceed 12 square feet in display surface area. No sign shall have more than two sides. A sign permit is required.
- E. A residence where a conditional use permit or interim use permit for a home occupation has been issued may have one single or double-faced sign that has a maximum display surface area of 16 square feet per side. The sign must not exceed 10 feet in height.
- F. Symbols, statues, sculptures and integrated architectural features on buildings are permitted. These items may be illuminated, but must meet any applicable glare standards. A sign permit is not required.
- G. Any sign in these zoning districts shall be set back at least 10 feet from any property line. No sign shall exceed 10 feet in height above the average grade level.
- H. Signs may be illuminated, but must meet any applicable glare standards. Dynamic displays are not permitted.

**Subd. 10. Signs in the “B-1” and “B-2” Business Districts.** The following signs are permitted in the B-1 and B-2 zoning districts:

- A. Freestanding and Monument Signs. The maximum freestanding or monument sign display surface area shall be limited to 100 square feet for single tenant buildings and 200 square feet for multiple tenant buildings. This maximum display surface area applies to one sign surface of no more than two sides per sign structure. The allotted maximum surface area may be distributed among multiple freestanding or monument signs. Freestanding and monument signs shall not exceed the height of the tallest building on the property or 35 feet, whichever is less. In all cases, the minimum setback for all freestanding or monument signs shall be at least 10 feet from any property line. In cases where an easement encumbers an area along the property line, the sign must be set outside of the easement area, even if the easement area exceeds ten feet from the property line. Dynamic displays are permitted. Sign permits are required.
- B. Building Signs. The maximum building sign display surface area shall be limited to 32 square feet or 15 percent of the building face, whichever is greater. No building sign shall extend beyond the height of the wall of the building. Building signs must be placed on the principal building. Dynamic displays are not permitted. Sign permits are required.
- C. Billboards. Billboards are permitted in the Retail and Service Business Districts. Billboards shall not exceed 250 square feet in display surface area and shall be separated from any other billboard on the same side of a street by at least 300 feet. Dynamic displays are not permitted.
- D. Separation. All signs within a lot or site shall be spaced no closer than 100 feet apart as measured along the public street frontage(s).
- E. Illumination. Signs may be illuminated but must meet the applicable glare standards. Internally illuminated freestanding and monument signs, including dynamic displays must be a minimum distance of 100 feet from the leading edge of said sign to an adjoining residential or agricultural zoning district boundary. This provision shall not apply to externally illuminated signs which otherwise comply with applicable glare standards

**Subd. 11. Non-conforming Signs.** Any sign legally existing at the time of the passage of this Section that does not conform to the provisions of this section shall be considered a legal non-conforming sign and may be continued through repair, replacement, restoration, maintenance or improvement but not including expansion. “Expansion” shall be defined as any structural alteration, change or addition that is made outside of the original sign structure, display surface area or design. Nothing in this section shall prevent the return of a sign structure that has been declared unsafe by the Town’s Building Official to a safe condition. When any legal non-conforming sign is discontinued for a period of more than one year or is changed to a conforming sign, any future sign shall be in conformity with the provisions of this section. Any legal non-conforming sign shall be removed and shall not be repaired, replaced or rebuilt if it is damaged by fire or similar peril to the extent of greater than 50 percent of its estimated market value as indicated in the records of the county assessor at the time of damage and no sign permit or building permit has been applied for within 180 days of the date of destruction. In the event

that a building permit or sign permit is applied for within 180 days of the date of destruction, the Town may impose reasonable conditions upon the building permit in order to mitigate any newly created impact on adjacent properties.

**Subd. 12. Variance.** Where the Town finds that extraordinary hardships or practical difficulties may result from strict compliance with this section, other than the procedural provisions and the purposes of this section may be served to a greater extent by an alternative proposal, the Board of Appeals and Adjustments may approve a variance, subject to the variance standards and requirements set forth in this Ordinance. An application for any such variance must be submitted to the Zoning Administrator in writing at the time of submittal of the sign permit application. The application must fully state the grounds and all of the facts to justify the granting of the variance.

**Subd. 13. Enforcement.**

- A. Notice. Any person who violates any provision of this Section shall receive a notice of the violation by hand delivery or mail indicating that he or she must correct the violation within 30 days of the date of the notice.
- B. Penalties. Any person convicted of violating this section shall be guilty of a misdemeanor and shall be subject to a fine or imprisonment as specified by state statute. Each day in which a violation continues to occur shall constitute a separate offense. Violation of any provision of this section shall also be grounds for revocation of the sign permit by the Town.

**Subd. 14. Appeal.** An applicant whose sign permit has been denied, or permittee whose sign permit has been revoked, may appeal the decision to the Board of Appeals and Adjustments provided that he or she files written notice of the appeal with the Zoning Administrator within 15 days of the date of the decision. Such appeal shall be considered by the Board of Appeals and Adjustments at its next regularly scheduled meeting held after the Town's receipt of the written notice of the appeal, provided that the notice of appeal is received by the Town a minimum of 20 full business days before the meeting. The Board of Appeals and Adjustments shall conduct an appeal hearing and allow the applicant and any of his or her witnesses to address the council and to submit additional information. The Board of Appeals and Adjustments shall make its final determination on the appeal no more than 30 business days after the appeal hearing. The Board of Appeals and Adjustments shall notify the applicant of its decision and provide reasons for the decision.

**Subd. 15. Severability and Conflict.** This section and its parts are declared to be severable. If any section, subsection, clause, sentence, word, provision or portion of this section is declared invalid or unconstitutional by a court of competent jurisdiction, this decision shall not affect the validity of this section as a whole. All parts of this section not declared invalid or unconstitutional shall remain in full force and effect as if such portion so declared or adjudged unconstitutional or invalid was not originally part of this section, even if the surviving parts of the section result in greater restrictions after the unconstitutional or invalid provisions are stricken. If any part of this section is found to be in conflict with any other provision of this



section or any other provision of this Ordinance or the Subdivision Ordinance or other applicable law or regulation, the most restrictive or highest standard shall prevail. If any part of this section is explicitly prohibited by federal or state law, that part shall not be enforced.

## SECTION 18

### TOWERS AND ANTENNAS

**Subd. 1. Limited Federal Preemption.** The Town recognizes that the Federal Communications Act of 1934 as amended by Telecommunications Act of 1996 (the “Act”) grants the Federal Communications Commission exclusive jurisdiction over the regulation of the environmental effects of radio frequency emissions from wireless communications facilities and primary jurisdiction over the regulation of radio signal interference among users of the radio frequency spectrum. Consistent with the Act, the regulation of towers and antennas in the Town will not have the effect of prohibiting any person from providing telecommunications services.

**Subd. 2. Purpose.** In order to accommodate the communication needs of residents and businesses while protecting the public health, safety and general welfare of the community, the Town finds that these regulations are necessary in order to:

- A. Facilitate the provision of wireless communication services to the residents and businesses of the Town;
- B. Minimize adverse visual effects of towers through careful design and siting standards;
- C. Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and
- D. Maximize the use of existing and approved towers to accommodate new wireless communication antennas in order to reduce the number of towers needed to serve the community.

**Subd. 3. Definitions.** The following words and terms when used in this section shall have the following meanings, unless the text clearly indicates otherwise.

- A. Antenna. Any structure or device used for the purpose of collecting or transmitting electromagnetic waves including, but not limited to, directional antennas such as panels, microwave dishes, satellite dishes and omni-directional antennas except:
  - 1. A satellite earth station dish antenna two meters in diameter or less located in an industrial or commercial district;
  - 2. A satellite earth station dish antenna one meter or less in diameter, wherever located;

3. Facilities which an operator demonstrates are solely subject of regulation by the Federal Communications Commission such as certain amateur radio facilities.
- B. Tower. Any ground, wall or roof mounted pole, spire, structure or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces and masts intended primarily for the purpose of mounting an antenna.

**Subd. 4. Location of Towers and Antennas.**

- A. Towers and antennas in residential zoning districts shall be a prohibited use, except that:
1. Towers supporting amateur radio operations equipment licensed by the FCC and conforming to all applicable provisions of this section shall be allowed as a conditional use only in the rear yard of residentially zoned parcels.
  2. Towers and antennas in residentially zoned districts which conform to all other applicable provisions of this section shall be allowed as a conditional use only in the following locations:
    - a. Religious institution sites when camouflaged as a small steeple or bell tower; or
    - b. Government, school and public utility sites.
  3. Antennas located on Town property, buildings or infrastructure such as water reservoirs shall be a permitted use to the extent any private, commercial antennas are currently located on such a site. Location of antennas on such sites shall be subject to obtaining a lease and any other required approvals such as a building permit and are subject to the availability of a suitable location at the site.
- B. Towers in all other zoning districts shall be allowed as conditional uses subject to the additional requirements of this Section and Ordinance.

**Subd. 5. Co-location Requirements.** All towers erected, constructed or located within the Town shall comply with the following requirements:

- A. A proposal for a new tower shall not be permitted as a conditional use unless the Town finds that the antenna planned for the proposed tower cannot be accommodated on an existing or approved tower within a one mile search radius of the proposed tower due to one or more of the following reasons:
1. The planned antenna would exceed the structural capacity of the existing or approved tower as certified by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified or replaced to accommodate the planned antenna at a reasonable cost;

2. The planned antenna would cause interference, materially impacting the usability of other existing or planned antenna or other communications equipment at the tower as certified by a qualified and licensed professional engineer, and the interference cannot be prevented at a reasonable cost;
  3. Existing or approved towers within the search radius cannot accommodate the planned antenna at a height necessary to function reasonably as certified by a qualified and licensed professional engineer; or
  4. Other unforeseen and documented reasons that make it infeasible to locate the planned antenna upon an existing or approved tower.
- B. Approval to develop, build, construct or erect a tower will not be granted to a person on the basis that it is economically infeasible for the person to co-locate or install an antenna on a tower or antenna support structure owned by another person.
- C. Any new tower shall be designed structurally, electrically and in all other respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height, or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

**Subd. 6.** Tower and Antenna Design Requirements. New or modified towers and antennas shall meet the following design requirements:

- A. Towers and antennas shall be designed in accordance with applicable laws and regulations such as the regulations of the Federal Aviation Administration.
- B. Towers shall be of a monopole design unless the party proposing construction of the tower demonstrates that an alternative design is necessary to meet engineering requirements.
- C. Use of guyed towers is prohibited. Towers must be self-supporting without the use of wires, cables, beams or other means. The design should utilize an open framework or monopole configuration.
- D. Tower locations must be maintained in a safe and reasonable condition in order to prevent accidents. Tower locations must be adequately fenced in order to deter trespass by children or other persons.

**Subd. 7.** Tower Setbacks. Towers shall conform with all of the following minimum setback requirements:

- A. Towers shall be set back from the nearest property line or public right-of-way by a minimum distance equal to the height of the tower, including all antennas and attachments;
- B. Towers shall not be located between a principal structure and a public street or other right-of-way used or dedicated for travel purposes;
- C. A tower set back may be reduced or its location in relation to a public street may varied at the sole discretion of the Town Board. Variance provisions are located in Section 26 of this Ordinance.

**Subd. 8. Tower Height.**

- A. Towers shall not exceed a height of 30 feet in residentially zoned areas, and shall not exceed a height of 130 feet in any other zoning district in the Town.
- B. The height of a tower shall be determined by measuring the vertical distance from the tower's point of contact with the ground or from grade with respect to a wall or rooftop mounted tower, to the highest point of the tower, including all antennas and other attachments.

**Subd. 9. Separation and Buffer Requirements.**

- A. Towers must be separated from residentially zoned properties by a minimum of 90 feet or 150 percent of the height of the proposed tower, whichever is greater. The minimum tower separation distance is calculated and applied irrespective of the Town's jurisdictional boundaries. Measurement of tower separation distances for the purpose of compliance with this subsection is measured from the base of a tower to the closest point of the proposed site, which abuts residentially zoned properties.
- B. Towers must be separated by at least 1500 feet from existing towers or towers approved but not yet constructed at the time a permit is granted. Separation distances are measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to the site plan for the proposed tower.

**Subd. 10. Tower Lighting.** Towers shall not be illuminated by artificial means including strobe lights, unless the Federal Aviation Administration or other state or federal authority for a particular tower specifically requires such lighting. If lighting is required, fixtures should be positioned inward to reduce glare and reflection onto adjacent properties. When incorporated into the particular design of the tower, light fixtures used to illuminate ball fields; parking lots and similar areas may be attached to the tower.

**Subd. 11. Signs.** The use of any portion of a tower for signs other than warning or equipment information is prohibited.

**Subd. 12. Construction Requirements.** All antennas and towers erected, constructed, or maintained within the Town, and all wiring therefore shall comply with the following requirements:

- A. All applicable provisions of this Ordinance;
- B. A tower shall be certified by a qualified and licensed professional engineer that it conforms to the latest structural standards, and wind loading requirements of the Uniform Building Code and the Electronics Industry Association;
- C. With the exception of necessary electric and telephone service and connection lines approved by the Town, no part of any antenna or tower nor any lines, cable, equipment or wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk or property line;
- D. Towers and antennas shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code;
- E. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet above the ground at all points, unless buried underground;
- F. Every tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons;
- G. All towers shall be constructed to conform to the requirements of the Occupational Safety and Health Administration;
- H. All proposed development, construction or modification of a tower shall require review by an engineer selected by the Town and permit fees shall cover this additional expense of the Town;
- I. Fences constructed around or upon parcels containing towers must be constructed in accordance with the applicable fencing requirements in the zoning district where it is located unless more stringent fencing requirements are required by FCC regulations; and
- J. Landscaping on parcels containing towers or support structures must be in accordance with landscaping requirements in the site plan.

**Subd. 13. Accessory Buildings.** A utility building or structure accessory to a tower, not exceeding 200 square feet in size is permitted. It must be architecturally designed to blend in with the surrounding environment, and shall meet the minimum setback requirements of the underlying zoning district.

**Subd. 14. Existing Antennas and Towers.** Antennas and towers in existence as of the effective date of this Ordinance, which do not conform to or comply with this Ordinance, are subject to the following provisions:

- A. Towers and antennas which are non-conforming may continue in use for the purpose now used and as now existing, but may not be replaced or structurally altered without complying in all respects with this Ordinance.
- B. If such antenna or tower is hereafter is destroyed by fire or other peril to the extent of 60 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage and no building permit has been applied for within 180 days of when the property is damaged, the antenna or tower may not be reconstructed unless it is in conformance with the provisions of this Ordinance.
- C. An owner upon whose land a tower that contains additional capacity for installation or co-location of antennas is located must allow other persons to install or co-locate antennas on the tower subject to reasonable terms and conditions negotiated between the parties. Existing towers may be modified to accommodate co-location of additional antenna by permit issued by the Town.

**Subd. 15. Abandoned or Unused Towers or Portions of Towers.** Abandoned or unused towers or portions of towers shall be removed as follows:

- A. All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations of the site unless the Zoning Administrator approves a time extension. A copy of the relevant portions of a signed lease, which requires the applicants to remove the tower and associated facilities upon cessation of operations at the site, shall be submitted at the time of application. In the event that a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the Town.
- B. Unused portions of towers above a manufactured connection shall be removed within six months of the time of removal of antenna. The replacement of portions of tower previously removed requires the issuance of a new conditional use permit.

**Subd. 16. Number of Towers and Antennas.** Only one tower shall exist at any one time on any one parcel subscribing to the parcel requirements for the underlying zoning district within the Town.

**Subd. 17. Antennas Mounted on Roofs, Walls and Existing Towers.** The Zoning Administrator may approve the placement of antennas on roofs, walls and existing towers provided that the antennas meet the requirements of this Section and upon submittal of a final site and building plan and a report prepared by a qualified and licensed professional engineer indicating the existing structures or tower's suitability to accept the antenna and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings and the precise point of attachment must be indicated.

**Subd. 18. Inspections.** All towers may be inspected at least once a year by the Town in order to determine compliance with original construction standards. Deviation from original construction for which a permit is obtained constitutes a violation of this section. Each tower owner shall pay an annual inspection fee, which shall cover the Town's costs. In addition to the annual inspection, the Town may conduct inspections at any time, upon reasonable notice to the owner to determine if the tower complies with the Minnesota State Building Code and other construction standards provided by this Ordinance, federal or state law or regulations. An inspection fee may be charged in an amount provided in the Town's fee schedule.

**Subd. 19. Interference with Public Safety Telecommunications.** No new or existing telecommunication service may interfere with public safety or Town communications. All applications for placement of an antenna or tower shall be accompanied by an intermodulation study, which provides technical evaluation of existing and proposed public safety or Town transmissions and indicates all potential interference problems with public safety or Town facilities and transmissions.

**Subd. 20. Permits.**

- A. It is unlawful for any person to erect, construct or place or re-erect, replace or repair any tower without first making application to the Town and securing a permit therefore as hereafter provided.
- B. The applicant shall provide at the time of application sufficient information, including a site plan, to indicate that the construction, installation and maintenance of the antenna and tower will not create a safety hazard or damage to the property of other persons.
- C. The applicant shall pay the fee prescribed in the Town fee resolution. An additional fee shall be paid for the review of any plans or other submissions by an engineer selected by the Town.

**Subd. 21. Additional Submittal Requirements.** In addition, to the information required elsewhere in this Ordinance, permit applications for towers shall include the following supplemental information:

- A. A report from a qualified and licensed professional engineer, which describes the tower height and design, including a cross section, and elevation. Said report must include written evidence that the proposed structure meets the structural requirements of this Section and the Minnesota State Building Code. The engineer's stamp and registration number shall be included on all reports;
- B. Documentation of steps the applicant will take to avoid interference with established public safety telecommunications, including a preliminary or certified written statement from an engineer that the construction and placement or the reception and transmission functions of the antenna and tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television or other communications service enjoyed by adjacent properties;

- C. Information describing the tower's capacity including the number and type of antennas that it can accommodate;
- D. Proof that the proposed tower complies with regulations administered by the Federal Aviation Administration;
- E. A report from a qualified and licensed professional engineer, which demonstrates the tower's compliance with the aforementioned structural and electrical standards;
- F. Written documentation that the applicant has made diligent but unsuccessful efforts for permission to install or co-locate the applicant's telecommunications facilities on towers or antenna support systems located within one mile of the proposed tower site, or written, technical evidence from an engineer certifying that the proposed tower or antenna cannot be installed or co-located on another party's tower or antenna support system located within a one mile radius of the proposed tower site and the proposed tower must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless telecommunications system.
- G. A copy of the lease or written agreement that has a provision requiring removal of tower or antenna after cessation of operations.
- H. A site plan showing surrounding land parcels and uses and other such information, including landscaping, as required in this section.

**Subd. 22. Violations.** Any person who violates any of the provisions of this Section shall be guilty of a misdemeanor.

## **SECTION 19**

### **ADULT USES**

**Subd. 1. Purpose.** The purpose of this Section is to preserve and protect the quality of life, health, safety and general welfare of the citizens of the Town, while providing a reasonable opportunity for such adult use businesses to exist and operate within the Town. It is not the intent of the Town Board to regulate these businesses on the basis of the expression of unpopular views or otherwise protected activities, but rather on the basis of likely adverse secondary effects associated with adult uses.

**Subd. 2. Licensing of Adult Uses.** Kanabec County licenses adult use establishments and managers within the Town. The licensing requirements are set forth in the Kanabec County Adult Use Ordinance, Ordinance Number 24.

**Subd. 3. Designated District.** The Town designates the Agricultural-Transition District (A-T) as the only zoning district in which adult uses will be permitted as an interim use, subject



to all required setbacks in the County Ordinance No. 24 and this Ordinance. These businesses shall be subject to all the requirements as stated in the County Ordinance and this Ordinance.

**Subd. 4. Additional Controls and Conditions.** In addition to the controls and conditions that have been adopted by the County, which are hereby adopted by reference, the Town adopts the following additional controls and conditions pertaining to adult uses, as defined by County Ordinance No. 24:

- A. An adult use establishment shall only be operated in the Town between the hours of 10 a.m. and 11 p.m.
- B. The merchandise of an adult use establishment shall not be able to be viewed from off of the premises.
- C. All entrances to an adult use establishment, with the exception of emergency fire exits, which shall not be usable by patrons to enter the business, shall be from a public right-of-way.
- D. An adult use establishment's exterior must be adequately illuminated so that the location and activities of all persons on the exterior of the premises can be observed.
- E. No person, other than the licensee and any employee of the licensee, shall remain on the premises of an adult use establishment, including the parking lot and other exterior areas more than 30 minutes after the close of the establishment.
- F. The exterior windows of the adult use establishment shall be opaque, screened or otherwise maintained to prevent viewing of merchandise or entertainment from outside of the establishment.
- G. The layout of any display areas shall be designed so that the management of the adult use establishment and any law enforcement personnel inside of the establishment can observe all patrons while they have access to the merchandise offered for sale or viewing, including, but not limited to, books, magazines, photographs, videotapes, DVDs or any other material or live dancers or entertainers.
- H. Goods or merchandise at an adult use establishment shall not be offered, sold, transferred, conveyed, given or bartered to a person under the age of 18 or displayed in a fashion that allows them to be viewed by a person under the age of 18 whether or not the person is on the premises.
- I. No adult use establishment shall exceed 10,000 square feet in gross floor area.

## SECTION 20

### NONCONFORMING BUILDINGS, STRUCTURES, USES AND LOTS

**Subd. 1. Purpose.** It is the purpose of this Section to provide for the regulation of nonconforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which nonconforming buildings, structures, and uses will be operated and maintained. This Ordinance establishes separate zoning districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures and uses will not be permitted to continue without restriction. Furthermore, it is the intent of this Section that all non-conforming uses shall be eventually brought into conformity.

**Subd. 2. Nonconforming Uses and Structures.** Except as otherwise provided by law or this Ordinance, any use or structure lawfully existing upon the effective date of this Ordinance, may be continued at the size and in the manner of operation existing upon such date, subject to the following conditions:

- A. Except as expressly allowed in by this Ordinance, a nonconforming use or structure shall in no way be expanded, enlarged or extended either on the same property or onto an adjoining lot of record. Prohibited expansion, enlargement or extension shall include anything that increases the intensity of the use including, but not limited to, a change to a more intense nonconforming use or a physical expansion of the existing use that increases the height, volume or area dimensions of the non-conforming use. Nonconforming principal and accessory structures may be expanded or enlarged upon issuance of the appropriate permits provided that the use of the property conforms to zoning district regulations, that the expansion or enlargement meets current zoning district regulations, and no other nonconformities are created.
- B. Routine maintenance of a structure containing or relating to a lawful nonconforming use is permitted, including any necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use. Nothing in this section will prevent the placing of a structure into a safe condition after it has been declared unsafe by the Building Official.
- C. Alterations may be made to a building containing nonconforming residential units when the alterations will improve the livability of such units, provided that such alterations do not increase the number of dwelling units in the building. Such alterations must be approved by the Zoning Administrator.
- D. Whenever a nonconforming structure or use is damaged by fire, collapse, flood, explosion, earthquake, war, riot, act of God or public enemy or to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, it may be reconstructed. The nonconforming structure or use shall not be permitted to be reconstructed if the damage is greater than 50 percent of the estimated market value as indicated in the records of the County Assessor records at

the time of damage and no building permit has been applied for within 180 days of when the property was damaged. When a nonconforming structure in the Shoreland District with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, the structure setback may be increased by the Town, if practical. In that event, conditions will be placed on the building permit in order to mitigate created impacts on adjacent properties and the water body.

- E. When any lawful nonconforming use of any structure or land is replaced by another use or structure, the new use or structure must conform to the provisions of this Ordinance and it shall not thereafter be changed to any nonconforming use or structure.
- F. If the nonconforming use of land is discontinued for a period of more than one year, the subsequent use of the land or the structure shall be in conformity with the provisions of this Ordinance.
- G. Nonconforming uses or structures which are declared by the Town Board to be public nuisances shall not be allowed to continue as legal nonconforming uses or structures.
- H. No repair, replacement, maintenance, improvement, or expansion of a nonconforming use or structure in a floodplain area shall be allowed if such activity would jeopardize the property's continued eligibility in the National Flood Insurance Program, would increase flood damage potential, or would increase the degree of obstruction to flood flows in the floodway.
- I. An existing resort may maintain and replace its structures and expand to the extent allowed in Minnesota Statutes, section 103G.227.

**Subd. 3. Nonconforming Lots.** Except as otherwise provided in this subdivision, a lawful nonconforming lot of record shall be deemed a buildable lot provided that:

- 1. The lot is at least 1 acre in area;
  - 2. The lot meets the minimum requirements for lot depth and lot width; and
  - 3. It complies with on-site sewage treatment system requirements of MPCA Rules Chapter 7080.
- A. Lots of record in the office of the County Recorder as of the date shoreland regulations were adopted for the Town that are located within a shoreland and do not satisfy the requirements of this Ordinance for lot size or lot width are subject to the following;
- 1. A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements, provided that:
    - a. All structure and septic system setback distance requirements can be met;

- b. A Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, can be installed or the lot is connected to a public sewer; and
  - c. The impervious surface coverage does not exceed 25 percent of the lot.
2. In a group of two or more contiguous lots of record under a common ownership, an individual lot shall be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
- a. The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;
  - b. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;
  - c. Impervious surface coverage must not exceed 25 percent of each lot; and
  - d. Development of the lot must be consistent with the Town's comprehensive plan.
3. A lot subject to paragraph 2 not meeting the requirements of paragraph 2 must be combined with the one or more contiguous lots so they equal one or more conforming lots as possible.
4. Notwithstanding paragraph 2, contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of Minnesota Statutes, section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.
5. In evaluating all variances, zoning and building permit applications, or conditional use requests, the Town shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage treatment requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

## SECTION 21

### HOME OCCUPATIONS / HOME BASED BUSINESS

**Subd. 1. Purpose.** It is the purpose of this Section to provide for the use of the home or a portion of a residential lot or agricultural homestead as a place for the operation of a business or profession provided that the occupation is clearly secondary to the principal use of the home as a residence, does not change the character of the area, and does not place an undue burden on public services and roads.

**Subd. 2. Class A Home Occupations.** Home occupations / home based businesses which: 1) do not include on-premise retailing; 2) do not require additional on-site employees, parking or accessory buildings; 3) do not generate a substantial increase in traffic; 4) do not negatively impact adjacent properties; and 5) do not increase the amount of public services or facilities to the residence shall be considered a Class A Home Occupation and may be permitted as an interim use. No such use may occur in the Town except upon issuance of a conditional use permit by the Town. An application for a conditional use permit must be submitted to the Zoning Administrator for review by the Planning Commission and review and approval by the Town Board.

**Subd. 3. Class B Home Occupations.** A home occupation that does not satisfy all of the criteria set out in subdivision 2 of this Section shall be considered a Class B Home Occupation and may be permitted as an interim use. No such use may occur in the Town except upon issuance of an interim use permit by the Town. An application for an interim use permit must be submitted to the Zoning Administrator for review by the Planning Commission and review and approval by the Town Board.

**Subd. 4. Permit Application Requirements.** The property owner shall submit an application for a conditional use permit or interim use permit for a home occupation to the Zoning Administrator. An application fee shall be charged in an amount established by Town Board. The application shall be accompanied by the following information and documentation:

- A. The name of the property owner and address;
- B. The legal description and zoning district of the property;
- C. A site plan showing the property lines and existing improvements;
- D. A site plan and description of any proposed improvements;
- E. A map showing the uses on all adjacent properties in non-residential zoning districts and uses of all properties within 720 feet in residential zoning districts; and
- F. Estimated water and sanitary sewer usage.

**Subd. 5. Performance Standards.** All home occupations must conform to the following performance standards:

- A. Conduct of the home occupation must not require alterations to the exterior of the residence which would substantially alter the appearance of the home as a residence.
- B. Only those persons residing in the home and two outside persons may work within the home or in an accessory building on the property.
- C. The home occupation shall not generate waste of a nature or type that cannot be treated by an individual sewage treatment system or municipal sewer system. Any hazardous wastes to be generated must have a plan for off-site disposal, which must be approved by the Zoning Administrator.
- D. The home occupation must comply with the performance standards for the General Business District which are set forth in Section 7, subdivision 13 of this Ordinance.
- E. All materials and equipment shall be stored inside or screened from residential streets and properties.
- F. All materials and equipment shall be stored within property structure setbacks.
- G. The total lot coverage of all buildings, storage, parking and driveways shall not exceed 30 percent of the gross square footage of the lot.
- H. No part of an individual sewage treatment system shall be covered by material storage or used for parking.
- I. The operation of the home occupation shall not result in the use of the public streets for parking.
- J. Only one vehicle with the company name or logo may be parked in the driveway or parking area on the property.
- K. The use of vehicles weighing 12000 lbs shall not be permitted, with the exception of commercial delivery trucks servicing the neighborhood.

## **SECTION 22**

### **COMMERCIAL MINING**

**Subd. 1. Commercial Mining.** The extraction of sand, gravel or other material from the land in the total amount of 300 cubic yards or more in a calendar year for sale and removal thereof shall constitute commercial mining. The conduct of commercial mining shall be

permitted only in the “A-T” and “A-R” zoning districts and only upon issuance of an interim use permit.

Commercial mining operations in existence prior to the enactment of this Ordinance must apply for an interim use permit and be subject to the provisions of this Ordinance at any time that the existing mining operation is expanded or moved to another parcel. The following requirements shall apply to commercial mining operations:

- A. In addition to the general requirements for interim use permit applications set forth in Section 24 of this Ordinance, the following information shall accompany the application:
1. A map of existing conditions on the entire site which includes areas within one mile of the site, which must include the property boundaries, contour lines at 10 foot intervals, existing vegetation, existing drainage and permanent water areas, existing structures, existing wells and individual sewage treatment systems, existing pipelines, power lines and other utilities and easements;
  2. A written description of the commercial mining operation, including the type of material to be extracted, mode of operation, estimated quantity of material to be extracted, plans for blasting and other pertinent information to explain the request and the proposed operation in detail;
  3. Phasing plan and estimated timeframe to operate the site;
  4. A description of all vehicles and equipment estimated to be used in the operation of the site, including a description of the estimated average daily and peak daily number of vehicles accessing the site;
  5. A description of the measures that will be undertaken in order to control dust;
  6. A description of the amount of existing natural screening that exists at the property lines and road right-of-way lines, along with a description of any safety barriers to be established to protect people and livestock from entering the site;
  7. A general description of groundwater conditions, including the depth to groundwater on the site;
  8. A recent survey of the property that includes the full legal description of the property and shows the location of all easements;
  9. A reclamation plan;
  10. A site plan of the proposed operation including a statement of the total acreage showing the location of the structures to be erected, the location of the sites to be extracted showing the depth of proposed excavation, the location of processing areas and machinery to be used, the location of extracted materials storage

(showing height of storage deposits), the location of vehicle parking, the location of explosive storage, the location of erosion and sediment control structures and the location of all haul routes.

11. The proposed hours and days of the week for operation broken down, to the extent applicable, for each type of activity proposed to occur on the property;
  12. A description of the anticipated vegetative and topographic alterations on the property;
  13. A description of the plan to mitigate potential impacts on wildlife and any neighboring cultural or archaeological sites;
  14. A description of the site hydrology and drainage characteristics during extraction for each phase of extraction. Identify any locations where drainage of any disturbed areas will not be controlled on the property and the plans to control erosion, sedimentation, and water quality of the runoff;
  15. A description of the potential impacts to adjacent properties resulting from the extraction and off-site transportation, including, but not limited to, noise, dust, surface water runoff, groundwater contamination, draw down of groundwater levels, traffic and aesthetics and a description of the plan to mitigate these potential impacts; and
  16. Any other information or documentation required for issuance of an interim use permit under Section 24 of this Ordinance.
  17. Drawings of the truck lanes to be constructed if the use is permitted.
- B. In addition to applying for an interim use permit, the applicant shall obtain all such other permits and permissions as may be required by law, including, but not limited to, the Minnesota Pollution Control Agency, and provide the Zoning Administrator with evidence of having obtained such permits prior to issuance of the interim use permit. All required permits must be obtained prior to start of operations. Evidence of possession of and future adherence to applicable permit requirements must be presented to the Zoning Administrator upon reasonable request.
- C. The approval by the Town of an annual updated operational plan shall be a condition of the interim use permit in order to ensure compliance.
- D. Setback Requirements. No commercial mining operation shall be carried on or any stock pile placed closer than 50 feet from any property line or road easement. A greater distance may be required by the Town Board where such is deemed necessary for the protection of adjacent property. All equipment and machinery must be operated and maintained in such a manner as to minimize dust, noise and vibration. Power drives of power producing machinery, not including vehicles, shall not be housed or operated less than 500 feet from a residence in existence at the time of the application or less than 50



feet from the property line if the distance to the nearest residence is over 500 feet. All processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and bluffs in accordance with the structure setback requirements as set forth in this Ordinance.

E. Performance Standards. The following performance standards apply to all commercial mining operations in the Town:

1. Owner/Operator. The owner of this site shall be required to provide the Zoning Administrator with written notice of each operator on the site. Any person or entity actively engaged in the extraction or processing of materials on the site shall be considered an operator. The notice shall include the name and address of the operator and the name and phone number of a contact person for the operator. Owners and operators, whether operators are lessees, independent contractors or otherwise, shall conform to the terms of the interim use permit and this Ordinance. A violation of this Ordinance or of the interim use permit shall be grounds for revocation of the interim use permit.
2. Shoreland. No new commercial mining operation shall be established within a shoreland area as defined by Minnesota Rule, part 6120.2500, subpart 15.
3. Additional Uses. A commercial mining operation site shall be solely used for operations directly related to the use as provided in the interim use permit. Any proposal to expand or change use of the land from what is allowed by interim use permit shall require an amended interim use permit or such other Town approvals as required by law. Any other use will require approval by the Town Board. Vehicles, equipment or materials not associated with the commercial mining facility or not in operable condition may not be kept or stored on the site, except as specifically authorized in the interim use permit. Storage of asphalt and concrete products on the site is permissible provided that the storage is a part of an on-going recycling effort. Portable crushing, concrete mixing or asphalt production facilities for specific projects are also permitted to be stored on the site.
4. Haul Roads. The owner or operator shall be responsible for removal of any debris that is deposited by the hauling vehicles on the haul roads on a regular basis at their own expense. The owner or operator must also repair any damage caused to the haul roads by the hauling vehicles at their own expense. For the purposes of this paragraph, haul roads shall include any public right-of-ways within the Town used for the hauling of materials from the commercial mining operation.
5. Safety Precautions. Fencing or barriers adequate to reasonably preclude people from entering the site shall be installed and maintained around the perimeter of the site. An entry gate must be installed at all entrances to the site. “No Trespassing” signs must be placed every 250 feet around the perimeter of the site. “Trucks Hauling” signs must be placed by the owner or operator of the site along

all Town roads a distance of not less than 500 feet from the entrance to the site. “Trucks Hauling” signs must be removed or covered by the owner or operator when the site is not in operation.

6. Blasting. If blasting will be performed on the site, the owner or operator must adhere to all applicable state, federal and local regulations relating to this activity.
7. Buffer. A vegetative buffer that is at least 50 feet in width must remain along the border of all of the property lines and road rights-of-way. No extraction activities shall take place within the buffer area and no vegetation shall be removed from this area. In cases where the natural screening will not be adequate to provide screening that would minimize the visual interruption of the surrounding landscape, the Town may require that the owner or operator construct an earthen berm that is at least 15 feet high. The Town may approve a buffer that does not meet the requirements of this Ordinance or allow commercial mining activities to take place within a buffer zone in situations where a haul road must be placed within the buffer zone for safety reasons or so that a haul road can be constructed in a location that will avoid wetlands.
8. Slopes. The non-working face of the pit shall be maintained at a slope not exceeding 2:1 except at cessation of operations when slopes shall not exceed 3:1. The working face of the pit shall be permitted a slope greater than 2:1 provided that by December 1st of each year all banks that are higher than 15 feet are rounded for safety purposes or are fenced. Permanent pits may be exempted from these requirements if the owner or operator can demonstrate to the Zoning Administrator that these safety measures are not needed in their particular circumstances or that other safety measures are more appropriate.
9. Erosion, Sediment Control and Soil Restoration. Before commercial mining operations cease each year, areas which have been exhausted of the material being extracted and topsoil has been removed shall be replaced with black dirt or native topsoil sufficient to support vegetation. Restored banks of excavation not backfilled shall not be steeper than 3:1. All banks and restored areas must be seeded and maintained in order to control erosion.
10. Excavation Below the Water Table. Excavation below the water table is allowed provided there is no adverse impact upon the quality and quantity of nearby surface water or wells and all applicable permits are obtained. The intent to excavate below the water table must be disclosed in the permit application.
11. Debris Removal. All trees, brush, stumps and other debris removed for the sole purpose of operation of the site shall be disposed of in a manner acceptable to the fire warden and the Kanabec County solid waste authority. There shall be no dumping or stockpiling of any materials on the site that are not related to the permitted extraction operation.

12. Noise. Maximum noise levels at the site must be consistent with the regulations established by the Minnesota Pollution Control Agency.
13. General Compliance. The owner and operator must comply with all federal, state, county and local laws and regulations applicable to the operation of the extraction facility, including, but not limited to the Minnesota Pollution Control Agency Regulations.

**Subd. 2. Reclamation.** A reclamation plan must be submitted by the applicant when applying for the interim use permit for approval by the Town. The reclamation plan must address reclamation both during operations and after closing.

A. Reclamation During Operations. The owner or operator must promptly perform the following reclamation activities during the course of operating the extraction facility:

1. All slopes must be stabilized;
2. Any unused equipment or structures must be removed;
3. A minimum of three inches of topsoil must be placed on all graded surfaces;
4. Soil restoration, seeding, and mulching must occur within each phase as soon as the final grades or interim grades have been reached. Processing, storage and staging areas are exempt from this requirement;
5. All pits and excavations must be guarded in such a manner that the banks do not pose a risk of caving or sliding;
6. The tops of all banks must be rounded in such a manner that they conform to the surrounding topography; and
7. All excavations must be properly drained, filled or leveled.
8. The site may not be sold or otherwise transferred until all reclamation activities are completed.

B. Closing Reclamation Plan. The closing reclamation plan must meet the following minimum standards and such reclamation shall be completed within one year of the expiration of the interim use permit or cessation of operations:

1. All buildings, structures and plants incidental to the operation must be dismantled and removed by the owner or operator;
2. The peaks and depressions of the site must be graded and backfilled to a surface which will result in a topography in substantial conformance to the surrounding

land area and which will minimize erosion caused by rain. No finished slope shall exceed 3:1.

3. Reclaimed areas must be surfaced with soil of a quality at least equal to the topsoil of the surrounding area. Legumes and grasses must be planted. Trees and shrubs may also be planted, but not as a substitute for legumes and grasses. All plantings must adequately retard soil erosion, and be based on Kanabec County Soil and Water Conservation District recommendations.
4. Commercial mining sites may also be reclaimed for wetland mitigation or creation. If it is the intent of the owner or operator to reclaim in this manner, the plans must be approved by the Town and Kanabec County Soil and Water Conservation District.
5. If the site is to be sold for some purpose other than continued mining, the final reclamation of the site must be fully complete before any such sale.

**Subd. 3. Financial Security.** The Town Board may require either the owner or operator of the site to post a bond, letter of credit or cash escrow in such form and sum as the Board shall determine. The security shall be in an amount the Town Board determines is sufficient to reimburse the Town for the costs and expenses associated with restoration as set forth in the conditions in the interim use permit. The Town Board shall review the security on an annual basis and may require that additional security be posted, if necessary. A requirement to provide security, or the receipt of security, shall not obligate the Town to restore the site or provide any particular reclamation services. Furthermore, the Town makes no promises of warranties to the owner, operator, or others that it will perform any such services or, if it does, provide any reclamation, that the work is sufficient for any particular purpose.

**Subd. 4. Termination.** The interim use permit may be reviewed for compliance by the Planning Commission each year and by the Zoning Administrator at such other times as the Zoning Administrator determines is appropriate. Interim use permits shall terminate as of the date of termination or event of termination specified in the interim use permit. The interim use permit may be terminated earlier by the Town Board after notice to the owner or operator and a public hearing, upon its determination that any of the following events have occurred:

- A. A violation of a condition under which the permit was issued; or
- B. A determination that the facility has been inactive for a period of 12 months or more.

## **SECTION 23**

### **CONDITIONAL USE PERMITS**

**Subd. 1. Procedure.**

- A. Applications for conditional use permits, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall also be accompanied by the required application fee and 10 copies of detailed written and graphic materials fully explaining the proposal.
- B. The application shall include the following information. The Zoning Administrator may waive the need to provide a specific item of information, or require the applicant to supply additional information, if the Zoning Administrator determines the information is, or is not, needed in order to fully understand and consider the particular permit request.
1. The legal description and address of the parcel.
  2. A site plan showing the location of all buildings and their square footages, the location of all streets, curb cuts, driveways, access roads, parking spaces and off-street loading areas and the existing topography.
  3. The estimated traffic generation.
  4. A finished grading and drainage plan.
  5. The type of business or activity and proposed number of employees.
  6. A proposed floor plan of any building and use being proposed.
  7. A sanitary sewer and water plan with the estimated use per day.
  8. A stormwater management plan.
  9. A sidewalk plan.
  10. A landscaping plan.
  11. A lighting plan.
  12. The soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices or engineering to be used to overcome said limitation must be included as part of the conditional use permit application.
  13. A location map showing the general location of the proposed conditional use within the Town.
  14. A map showing all principal land use within one mile of the parcel for which application is being made.
  15. Any other information deemed necessary by the Town.

- C. The Zoning Administrator shall set a date for a public hearing before the Planning Commission. Notice of such hearing shall be published in the official newspaper of the Town at least 10 days prior to the date of the hearing. An individual notice shall be sent to all property owners of record within at least one mile of the property. The notice will identify, by address, the property that is the subject of the application. A copy of the notice and a list of the property owners and addresses to which the notice was sent shall be attested to by the Zoning Administrator and made part of official record. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.
- D. The Planning Commission shall consider the application at the public hearing at which the applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed conditional use.
- E. The Town shall have the authority to request additional information from the applicant or to retain a consultant at the expense of the applicant if determined to be necessary in reviewing the request.
- F. The Planning Commission shall consider possible effects of the proposed conditional use. Its recommendation shall be based upon, but not limited to, the following general requirements and applicable specific requirements set forth as follows:
  - 1. General Requirements.
    - a. The Comprehensive Plan and development policies of the Town.
    - b. The use will not create an excessive demand on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
    - c. The use will be sufficiently compatible or separate by distance or screening from adjacent development or land so that existing development will not be depreciated in value and development of vacant land will not be deterred.
    - d. The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties.
    - e. The use, in the opinion of the Town, is reasonably related to the overall needs of the Town and to the existing land use.
    - f. The use is consistent with the purposes of the zoning ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.

- g. The use will not cause traffic hazard or congestion.
2. Specific Requirements. The conditional use permit application shall further comply with the following requirements:
- a. The land area and setback requirements of the property containing such a use or activity shall be the minimum established for the district.
  - b. When abutting a residential use in a district permitting residences, the property shall be appropriately screened and landscaped.
  - c. Where applicable, all Town, County, State and federal laws, regulations and ordinances shall be complied with and all necessary permits secured.
  - d. Adequate off-street parking and loading shall be provided. Such parking and loading shall be screened and landscaped from abutting residential uses.
  - e. The street serving the use or activity is of sufficient design to accommodate the proposed use or activity; and such use or activity shall not generate such traffic to create a nuisance or hazard to existing traffic or to surrounding land uses or result in the need for excessive road improvements or maintenance.
  - f. All access roads, driveways, parking areas and outside storage, service, or sales areas shall be surfaced to control dust.
  - g. All open and outdoor storage, sales and service areas shall be screened from view from abutting residential uses or districts.
  - h. All lighting shall be designed with shrouds or lenses to direct or diffuse light so as not to have a glaring direct source of light visible from adjacent areas or from the public streets.
  - i. The site shall be properly drained to control surface water runoff and prevent erosion.
  - j. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence.
  - k. Where structures combine residential and non-residential uses, such uses shall be separated and provided with individual outside access, and the uses shall not conflict in any manner.

G. The Town may impose such additional restrictions or conditions as deemed necessary to protect the public interest. These conditions, in addition to those specific requirements set forth in this section may include, but are not limited to, the following:

1. Matters relating to architecture or appearance.
2. Establishing hours and days of week of operation.
3. Increasing the required lot size or yard dimensions.
4. Limiting the height, size or location of buildings.
5. Controlling the location and number of vehicle access points.
6. Increasing the street width and load capacity.
7. Increasing the number of required off-street parking spaces.
8. Limiting the number, size or location of lighting.
9. Requiring dikes, fences, screening, landscaping or other improvements to protect adjacent or nearby property.
10. Designating area for open space.

H. Following the conclusion of the public hearing, the Planning Commission shall develop findings of fact and its recommendation, together with any recommended conditions, relating to the request and forward same to the Town Board. Upon receiving the findings of fact and recommendations, the Town Board shall consider the request and the Planning Commission's findings and recommendations at a meeting.

1. The Town Board may approve or disapprove the request based upon whether the application meets the requirements stated in this Ordinance and is sufficiently protective of the public health, safety, and welfare. The Town Board may also refer the matter back to the Planning Commission for further consideration.
2. If the Town Board approves the request, it may add to, delete, or amend the conditions recommended by the Planning Commission.

Approval of a conditional use permit shall require passage by two-thirds vote of the full Town Board. The Zoning Administrator shall notify the applicant of the Town Board's action.

I. A certified copy of every conditional use permit shall be recorded by the Zoning Administrator with the County.



J. In the case of denial of the application, the applicant cannot reapply for the same project within six months of the Town Board's action.

**Subd. 2. Expiration of Conditional Use Permit by Non-Use.** Whenever within one year after granting a conditional use permit, the work as permitted by the conditional use permit has not been completed or the use is not fully underway (whichever is appropriate), such permit shall expire unless an extension of time in which to complete the work has been granted by the Town Board. Such extension shall be requested in writing and filed with the Zoning Administrator at least 30 days before the expiration of the original conditional use permit. There shall be no charge for the filing of an extension request. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the conditional use permit. Such request shall be presented to the Planning Commission for a recommendation and to the Town Board for a decision. Only one extension may be requested. Upon expiration of a conditional use permit, the County Recorder shall be notified by the Zoning Administrator of the termination of the permit.

**Subd. 3. Revocation of a Conditional Use Permit.** A violation of any condition set forth in a conditional use permit shall be a violation of both the permit and this Ordinance. Failure to correct a violation within thirty(30) days of written notice from the Zoning Administrator shall be grounds to revoke a conditional use permit through the following procedure:

- A. The Zoning Administrator shall give written notice to the permit holder, advising that the conditional use permit may be revoked upon the conclusion of a public hearing. The written notice shall also contain the nature of the violation and the facts that support the conclusions that a violation exists.
- B. The Town Board shall hold a public hearing in the same manner to that required for a new conditional use permit.
- C. The Town Board shall determine whether to revoke the conditional use permit at the hearing or within 30 days from the closure of the public hearing. The Town Board may modify the conditions of the conditional use permit so that a violation no longer exists. The Town Board shall adopt written findings to support its decision.
- D. The Zoning Administrator shall give written notice of the Town Board's decision to the permit holder.

**Subd. 4. Amended Conditional Use Permit.** Any change involving structural alterations, enlargement, intensification of use or similar change not specifically permitted by the conditional use permit issued shall require an amended conditional use permit and all application and review procedures shall apply as if a new conditional use permit was being requested.

**Subd. 5. Financial Security.** The Town Board shall have the authority to require a letter of credit or other financial security when it is deemed necessary and appropriate.

- A. Upon approval of a conditional use permit, the Town Board may require a letter of credit, surety bond, cash escrow, certificate of deposit, cash deposit or other type of financial security prior to issuing building permits or allowing work to be initiated on the proposed improvements. Said security shall guarantee conformance and compliance with the conditions of the conditional use permit and the ordinances of the Town.
- B. The security may be in the amount of the Town Board's estimated costs of labor and materials for the proposed improvements or development. Said project and associated security can be handled in increments at the discretion of the Town Board.
- C. The Town Board may hold the financial security until completion of the proposed improvements or development and a certificate indicating compliance with the conditions and ordinances of the Town has been issued by the Zoning Administrator.
- D. Failure to comply with the conditions of the conditional use permit or ordinances of the Town Board may result in forfeiture of the security.

## SECTION 24

### INTERIM USE PERMITS

**Subd. 1. Interim Use.** An "interim use" is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permits it.

**Subd. 2. Purpose.** The purpose of this Section is to allow interim uses under specific and regulated conditions.

**Subd. 3. Requirements for Interim Use Permits.** An interim use permit may be granted if all of the following conditions are met:

- A. The use conforms to the zoning regulations;
- B. The date or event that will terminate the use can be identified with certainty;
- C. Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
- D. The user agrees to any conditions that the Town Board deems appropriate for permission of the use.

**Subd. 4. Procedure.** The procedure for submitting an interim use permit application and reviewing the application is the same as set forth for conditional use permits, as set forth in Section 23 of this Ordinance.

## SECTION 25

### VARIANCES

#### **Subd. 1. Procedure.**

- A. Requests for variances, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall also be accompanied by the application fee and at least 5 copies of the detailed written and graphic materials fully explaining the proposed change, development and use.
- B. The application shall be accompanied by a site plan of the proposed variance showing such information as may be necessary or desirable, including, but not limited to the following:
  - 1. The name and address of the applicant(s).
  - 2. A description of the variance request, citing the specific provision of the Ordinance from which a variance is being sought, and an explanation of the reasons for the request.
  - 3. A specific description of the area for which the variance is requested, the addresses of all owners of property lying within 500 feet of such area, and a general description of the property owned by each.
  - 4. Proposed use of land for which variance is requested.
  - 5. A statement of the compatibility of the proposed variance with the Town Comprehensive Plan.
  - 6. A legal description of the property for which the variance is requested.
  - 7. A detailed map of the property showing the location of existing and proposed buildings, and dimensional variances requested, and existing land uses and buildings of adjacent properties.
- C. After determining that the application has been properly filed and is complete, the Zoning Administrator shall present said application along with all related information to the Planning Commission. The Planning Commission and staff shall have the authority to request additional information from the applicant or to retain expert testimony, at the expense of the applicant, when said information is determined to be necessary in order to fully evaluate the request.
- D. The Planning Commission shall hold a hearing on proposed variance preceded by at least 10 days published notice. The applicant or a representative thereof, shall appear before

the Planning commission at the hearing in order to answer questions concerning the requested variance.

E. The Planning Commission shall prepare findings of fact and make a recommendation to the Board of Appeals and Adjustments regarding the request. The findings shall be considered part of the record of the hearing which shall be forwarded to the Board of Appeals and Adjustments for consideration.

1. Findings. When preparing its findings, the Planning Commission shall consider whether the request meets all of the following criteria:

- a. The proposed action will be in keeping with the spirit and intent of the Comprehensive Plan and Ordinance;
- b. The property in question cannot be put to a reasonable use if used under conditions allowed by this Ordinance;
- c. The plight of the landowner is due to circumstances unique to the property and not created by the landowner;
- d. The variance, if granted, will not alter the essential character of the locality or adversely impact the environment; and
- e. The variance requested is the minimum variance which would alleviate the hardship.

The Board of Appeals and Adjustments will only grant a variance if it finds the request meets all of the above criteria. Economic considerations alone shall not constitute an undue hardship if reasonable use of the property exists under the terms of the Ordinance. Access to direct sunlight in cases of solar energy systems shall constitute grounds for granting a variance. A variance may not be issued for any use which is not permitted within the zone where the property is located.

F. Upon receiving the report and recommendation of the Planning Commission, the Board of Appeals and Adjustments shall consider the matter and make a final decision on whether to grant the requested variance.

G. Approval of variances shall require passage by two-thirds vote of the Board of Appeals and Adjustments. The Zoning Administrator shall notify the applicant of the action in writing. The decisions of the Board of Appeals and Adjustments shall be final, subject to judicial review.

H. A certified copy of every variance shall be filed with the County Recorder.

I. In the case of denial of the application, the applicant cannot reapply for the same variance or project within six months of the denial.

**Subd. 2. Expiration of Variance.** Whenever within one year after granting a variance the work as permitted by the variance has not been completed, the variance shall expire unless a request for extension of time in which to complete the work has been granted by the Board of Appeals and Adjustments. Such extension shall be requested in writing and filed with the zoning Administrator at least 30 days before the expiration of the original variance. There shall be no charge for the filing of such request. The written request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance. Such request shall be presented to the Board of Appeals and Adjustments for a decision, and shall be requested only one time on a singular action.

**Subd. 3. Performance Bond.** The Board of Appeals and Adjustments shall have the authority to require a performance bond or other securities when it is deemed necessary and appropriate.

- A. Except in the case of non-income producing residential property, upon approval of a variance the Board may require a surety bond, cash escrow certificate of deposit, securities or cash deposit prior to the issuing of land use permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the variance and the ordinances of the Town.
- B. The security may be in the amount of the Board's estimated cost of labor and materials for the proposed improvements or development.
- C. The Board may hold the security until completion of the proposed improvements or development and a certificate indicating compliance with the variance and ordinances of the Board has been issued by the Zoning Administrator.
- D. Failure to comply with the conditions of the variance or ordinances of the Board may result in forfeiture of the security.

## SECTION 26

### APPEALS

**Subd. 1. Procedure.** An appeal, as provided within this Ordinance, shall be filed with the Zoning Administrator within 14 days of the order, requirement, decision or determination being appealed from on an official application form. Actions of the Planning Commission and the Town Board shall not be appealable to the Board of Appeals and Adjustments. An appeal shall be accompanied by the appeal fee and 10 copies of detailed written and graphic materials fully explaining the appeal. The Zoning Administrator shall refer said appeal, along with all related information, to the Board of Appeals and Adjustments for consideration and action.

- A. The appeal shall be accompanied by information which may be necessary or desirable, including, but not limited to, the following:

1. The particular order, requirement, decision or determination from which the appeal is being taken;
  2. The name and address of the appellant;
  3. The grounds for the appeal; and
  4. The relief requested by appellant.
- B. An appeal stays all proceedings in furtherance of the action appealed unless the Board of Appeals and Adjustments, to whom the appeal is taken, determines that by reason of the facts stated in the application, a stay would cause imminent peril to life or property.
- C. The Board of Appeals and Adjustments shall consider the appeal at its meeting held within a reasonable time after the Town's receipt of a complete appeal application. The appellant and Town staff person from which the appeal is taken shall appear before the Board of Appeals and Adjustments in order to answer questions concerning the appeal.
- D. Following the meeting at which the appeal was considered, the Board of Appeals and Adjustments may reverse or affirm, wholly or partly; or may modify the order, requirement, decision or determination appealed and shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit or allow for an action. The reasons for the Board's decisions shall be stated in writing.
- E. All decisions by the Board of Appeals and Adjustments in hearing appeals from any administrative order, requirement, decision, or determination shall be final, subject to judicial review.

## **SECTION 27**

### **BOARD OF APPEALS AND ADJUSTMENTS**

**Subd. 1. Creation and Membership.** A Board of Appeals and Adjustments, previously established by the Town Board, is hereby reaffirmed and is vested with such authority as is hereinafter provided and as provided by Minnesota Statutes. The Board of Appeals and Adjustments shall consist of all members of the Town Board of Supervisors. The Zoning Administrator or Town Clerk may act as Secretary of the Board of Appeals and Adjustments.

The Board of Appeals and Adjustments shall elect a Chairperson and Vice Chairperson from among its members. It may adopt rules for the transaction of its business and shall keep a public record of its transactions, findings and determinations.

The meetings of the Board of Appeals and Adjustments shall be held at the call of the Chairperson and at such other times as the Board of Appeals and Adjustments in its rules of procedure may specify.

**Subd. 2. Powers.** The Board of Appeals and Adjustments shall have the following authority:

- A. To vary or modify the strict application of any of the regulations or provisions contained in this Ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration. No variance or modification of the uses provided for within a zoning district shall be allowed, except as otherwise provided in this Ordinance;
- B. To interpret zoning district boundaries on official zoning maps;
- C. To permit the extension of a zoning district where the boundary line thereof divides a lot in single ownership at the time of the passage of this Ordinance, but such extension of any zoning district shall not exceed 100 feet;
- D. To hear and act upon all questions as they may arise in the administration of this Ordinance or the Town's subdivisions regulations; and
- E. Hear and decide appeals from and review any order, requirements, decision or determination made by a Town administrative official charged with enforcing any provision of this Ordinance or the Town's subdivisions regulations.

**Subd. 3. Appeals.** Any aggrieved persons, firm or corporation alleging an error in any order, requirement, decision or determination made by a Town administrative official in the enforcement of this Ordinance shall have the right to appeal to the Board of Appeals and Adjustments. The appeals procedure is set out in Section 26 of this Ordinance.

## **SECTION 28**

### **ADMINISTRATION AND ENFORCEMENT**

**Subd. 1. Administrating Officer.** This Ordinance shall be administered and enforced by the Zoning Administrator who shall be hired by, and serves at the pleasure of, the Town Board.

**Subd. 2. Duties of the Zoning Administrator.** The Zoning Administrator shall enforce the provisions of this Ordinance and shall perform the following duties:

- A. Determine whether a permit application complies with the terms of this Ordinance;
- B. Issue land use permits after determination of above and review and approval by the Planning Commission and Town Board, if required;

- C. Maintain permanent and current records of permits and approvals issued pursuant to this Ordinance, including, but not limited to, zoning map changes, amendments to this Ordinance, issuance of conditional use and interim use permits, variance approvals and appeals;
- D. Receive, file and forward all applications for appeal, variances, conditional use permits, interim use permits, amendments and other matters to the designated official bodies;
- E. Institute in the name of the Town, any appropriate actions or proceedings against a violator as provided by law; and
- F. Perform such other duties as directed by the Town Board.

**Subd. 3. Building Official.** The Town Board shall hire a Building Official to administer the State Building Code for the Town, including the issuance of building permits, and to perform such other duties as established in this Ordinance or may be assigned by the Town Board. The Building Official serves at the pleasure of the Town Board and may be the same person as the Zoning Administrator.

**Subd. 4. Building Permit Required.**

- A. Scope. From and after the effective date of this Ordinance, it shall be unlawful to proceed with the construction, placement, alteration, repair, enlargement, demolition, or removal of any building or structure with a fixed ground location, or part thereof, without first obtaining the required building permit.
- B. Building Permit Applications. Applications for a building permit shall be filed with the Building Official on an official application form. Each building permit application shall be accompanied by a site plan drawn to scale showing the dimensions of the lot, size and location of all principal and accessory buildings and parking areas, and such additional information deemed necessary for the proper review and enforcement of this Ordinance, the Minnesota State Building Code and any other applicable laws and regulations. The Zoning Administrator may require a survey as part of the application when the property is undeveloped or when the location of property lines are in question, or when the use of the property is being changed.
- C. Issuance of the Building Permit. The Zoning Administrator shall approve the issuance of a building permit only when the plans are in conformance with all requirements of this Ordinance and other applicable Town ordinances. If all requirements are met, a land use permit will be issued by the Zoning Administrator. In certain cases, the building permit application may be subject to the review and approval of the Planning Commission and the Town Board, in accordance with the operating policies of the Town.
- D. Building Code Adopted by Reference. The Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes, Chapter 326B, including all of the amendments, rules and regulations established, adopted and



published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Unit is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this section. The Minnesota State Building Code is hereby incorporated in this section as if fully set out herein.

- E. Application, Administration and Enforcement. The application, administration and enforcement of the code shall be in accordance with the Minnesota State Building Code. The code enforcement agency of this Town is called the building department. This code is enforced by the Minnesota Certified Building Official designated by the Town to administer the code in accordance with Minnesota Statutes, section 326B.133, subdivision 1.
- F. Permits and Fees. The issuance of permits and the collection of fees shall be as authorized in Minnesota Rules, Chapter 1300. Permit fees will be assessed for work governed by this code in accordance with the fee schedule adopted by the Town. In addition, a surcharge fee will be collected on all permits issued for work governed by this code in accordance with Minnesota Statutes, section 326B.148.
- G. Violations and Penalties. A violation of this code is a misdemeanor (Minnesota Statutes, section 326B.082, subdivision 16).
- H. Building Code Optional Chapters. The Minnesota State Building Code, Minnesota Rules Chapter 1300, allows the Town to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code. The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the building code for the Town: (None).

## SECTION 29

### AMENDMENTS

**Subd. 1. Initiation of Amendments.** The Town Board or Planning Commission may, upon their own motion, initiate a request to rezone property or amend the zoning district boundaries or text of this Ordinance. Any person owning real estate within the Town may initiate a request to rezone his or her property or amend the zoning district boundaries or text of this Ordinance.

**Subd. 2. Procedure.**

- A. A person wishing to request an amendment as provided in this Section must submit an application to the Zoning Administrator. Such application shall also be accompanied by the required application fee and 10 copies of detailed written and graphic materials fully explaining the proposed amendment. The Zoning Administrator shall present complete

and properly filed applications, along with all related information, to the Planning Commission.

- B. The application shall be accompanied by written and graphic materials including, but not limited to, the information set out below. The Zoning Administrator may waive the need to provide a specific item of information, or require the applicant to supply additional information, if the Zoning Administrator determines the information is, or is not, needed in order to fully understand and consider the requested amendment.
1. A description of any land area affected by the application;
  2. A stated reason for requested change;
  3. A statement about the request's compatibility with the Comprehensive Plan and other Town plans and policies;
  4. A text of the portion of the existing ordinance to be amended;
  5. The proposed amended text and statements outlining any other effects that the amendment may have on other sections of this Ordinance;
  6. Information on any specific project related to the amendment request including, but not limited to, the following:
    - a. A site plan drawn to scale showing the parcel and existing and proposed buildings and structures and their dimensions and locations;
    - b. Curb cuts, driveways, access roads, parking and loading areas and sidewalks;
    - c. Surface water drainage plans sufficient to drain and dispose of surface water;
    - d. Existing and proposed utilities including storm sewers, sanitary sewers and water supply; and
    - e. Soil type and soil limitations for the intended use.
  7. Additional information which may be requested by the Town.
- C. The Zoning Administrator shall set a date for a public hearing to be held before the Planning Commission on the proposed amendment. Notice of such hearing shall be published in the official newspaper of the Town at least 10 days prior to the date of the hearing. When the application of the amendment involves changes in zoning district boundaries affecting an area of five acres or less, written notice shall also be sent to all property owners of record within one mile of the affected property. The Town may

provide additional notice than the minimum required by law. A copy of the notice and a list of the property owners and addresses to which the notices were sent shall be attested to by the Zoning Administrator and made part of official record. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

- D. The Planning Commission shall consider the request at the public hearing at which the applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed amendment.
- E. The Town shall have the authority to request additional information from the applicant or to retain expert testimony with the consent and at the expense of the applicant if said information is declared to be necessary by the Town in reviewing the request.
- F. The Planning Commission shall consider possible effects of the proposed amendment. Its recommendation shall be based upon, but not limited to, the following criteria:
  - 1. The Town may adopt amendments to the zoning ordinance and zoning map in relation both to land uses within a particular zoning district or to the location of the zoning district lines. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the community as reflected in the Comprehensive Plan or changes in conditions in the Town. The following factors shall be considered:
    - a. Whether the amendment will create an excessive demand on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
    - b. Whether the amendment is sufficiently compatible so that existing development will not be depreciated in value and there will be no deterrence to development of vacant land.
    - c. The amendment in the opinion of the Town is reasonably related to the overall needs of the Town.
    - d. The amendment is consistent with the intent and purposes of the zoning ordinance.
    - e. The amendment will not cause traffic hazards or congestion.
- G. Following the conclusion of the public hearing, the Planning Commission shall develop its findings of fact and recommend such actions or conditions relating to the request to the Town Board.

- H. Upon receiving the findings of fact and recommendation of the Planning Commission, such reports and recommendations shall be entered in and made part of the permanent written record of the Town Board meeting. The Town Board shall consider the request and the Planning Commission's findings and recommendations or, if the Planning Commission fails to make a recommendation within 60 days of when the matter was referred to it, may take action on its own initiate without a recommendation. The Town Board may approve or disapprove of the proposed amendment. The Town Board may also refer the request back to the Planning Commission for further consideration. If the Town Board approves the amendment, it may add to, delete, or otherwise modify the provision of the proposed amendment.
- I. Approval of a request shall require passage by two-thirds vote of the Town Board. The Zoning Administrator shall notify the applicant of the Town Board's action.
- J. In the case of denial of the application, the applicant cannot reapply for the same amendment within six months of the Town Board's action.

## SECTION 30

### FEES

**Subd. 1. Required Fees.** Any person submitting an application under this Ordinance shall pay the applicable application fee as established by the Town Board. The person shall also pay an administrative fee deposit in the amount determined by the Town Board and sign an agreement on a form provided by the Town agreeing to reimburse the Town for its costs, including all engineering, planning, legal, administrative and inspection expenses, incurred by the Town in processing the application. Payment of the application fee, payment of the administrative fee deposit, and execution of the reimbursement agreement shall be required prior to an application being considered filed, complete, and subject to processing.

**Subd. 2. Administrative Fee.** As the Town processes the application, the Town Clerk shall deduct the expenses incurred by the Town from the administrative fee deposit. If the Town Clerk determines, after consulting with the Zoning Administrator, the deposit will not be sufficient to fully reimburse the Town for its expenses, the Zoning Administrator shall require the applicant to make a supplemental deposit in an amount deemed necessary to reimburse the Town for all of its expenses. If the applicant fails to submit the supplemental deposit within a reasonable time, the Town may suspend processing the application until the deficiency is corrected or deny the application.

**Subd. 3. Reimbursement in Full Required.** Upon the termination of the application, by approval, denial, withdrawal, or any other means, all expenses incurred by the Town shall be immediately payable by the applicant. Any deposit, plus interest, in excess of the Town's expenses shall be refunded to the applicant. No permits shall be issued, no construction or development shall commence, and no use of the property shall be made until all fees are paid in full. In the event that payment of expenses is not made within a reasonable time after demand, the Town Board or Zoning Administrator may take such steps as are available to the Town under law to collect the unreimbursed amounts, including collection costs. The steps the Town may take to recover its costs include, but are not limited to, placing the amount on the person's property as a service charge

pursuant to Minnesota Statutes, section 366.012, file a lien upon the subject property or other property of the applicant pursuant to Minnesota Statutes, section 514.67, or take such other action as may be deemed appropriate to obtain full reimbursement the Town for all expenses it incurs related to the matter.

**ARTHUR TOWNSHIP - FEE SCHEDULE**

Preliminary Evaluation and/or Site Inspection Application	\$ 50.00
Conditional Use Permit/Application	\$700.00
Interim Use Permit/Application	\$700.00
CUP or Interim Use Yearly Inspection Fee	\$100.00
Minor Subdivision/Application	\$500.00
Planned Unit Development/Application	\$500.00
Variance/Application	\$500.00
Preliminary Plat/Application	\$500.00
Final Plat	\$600.00
Appeal	\$400.00
Exemption Certificate	\$100.00
Request for Zoning Amendment	\$500.00
Work Permit for Water Alteration	\$100.00
Drainage Permit	\$ 50.00
Off Street Parking Site Permit	\$ 50.00
Tower Permit – Plus all Engineering Costs	\$ 50.00
Excavation Permit	\$ 50.00
Obstruction Permit	\$ 50.00
Sign & Inspection Permit	\$100.00
Grading & Filling – Shoreland	\$ 50.00
Land Use Permit	\$ 50.00
Driveway Permit + Culvert Cost	\$150.00
A deposit of \$100.00 is also required and will be refunded upon final inspection	
Citation & Towing Report	\$ 50.00
Right of Way Permit	\$ 50.00
Drain Field or Holding Tank	\$250.00
Septic or Mound System	\$250.00
Escrow Agreement for incomplete Septic System Compliance	\$100.00
Rental of Town Hall	\$ 50.00
A damage/cleaning deposit of \$200.00 is required and will be returned if	

there are no damages or cleaning costs incurred.

**NOTE:** There may be additional costs associated and assessed by the Arthur Town Board, if they become necessary.

**BUILDING PERMIT FEES:**

**Residential**

*Building Permits*

Residential Building Permit Fee	Valuation based on the 1994 UBC Table 1A
Plan Review Fee	65% of building permit fee
State Surcharge	The greater of .0005 x valuation or \$.50

*Building Permits - Maintenance*

Roofing	\$75.00 + \$.50 state surcharge = \$75.50
Siding	\$75.00 + \$.50 state surcharge = \$75.50
Window Replacement (if opening size changes)	Valuation based on the 1994 UBC Table 1A
Window Replacement (if opening size stays the Same)	No permit required
Demolition	\$100.00 + \$.50 state surcharge = \$100.50

*Plumbing Permits*

Plumbing Permit – Residential Alteration	\$75.00 + \$.50 state surcharge = \$75.50
Plumbing Permit – Residential New	\$75.00 + \$.50 state surcharge = \$75.50
Sprinkler/Irrigation Systems	\$75.00 + \$.50 state surcharge = \$75.50

*Mechanical Permits*

Mechanical Permit – Residential Alteration	\$75.00 + \$.50 state surcharge = \$75.50
Mechanical Permit – Residential Fireplace	\$75.00 + \$.50 state surcharge = \$75.50
Mechanical Permit – Residential New	\$75.00 + \$.50 state surcharge = \$75.50

ISTS Permits (New, Replace or Repair)	\$200.00 + \$200.00 (for required soil verification borings) = \$400.00
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**MISCELLANEOUS:**

Driveway Permit	\$150.00 plus cost of culvert (minimum \$300)
Returned Check Fee	\$30.00
Photocopies* 8.5x11 BW	\$.20 per page, plus \$20.00/hour for Town staff time required to find, compile, and copy the data if necessary
Zoning Ordinance	\$32.00
Comprehensive Plan	\$5.00

\*Copies may be picked up in person, faxed, or sent by U.S. Mail (payment for the copies and postage must be prepaid)

\*All fees set out in this schedule are deemed service charges. Pursuant to Minn. Stat. § 366.012, the Town may collect any unpaid service charges by certifying them to the county auditor in any county in which the person who incurred the charge owns property for collection together with the property taxes.

## SECTION 31

### PENALTIES AND VIOLATIONS

**Subd. 1. General Offense.** Unless otherwise provided in this Ordinance, any person violating any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a maximum fine or maximum period of imprisonment, or both, as specified by Minnesota Statutes, section 609.03. In either case, the costs of prosecution may be added pursuant to Minnesota Statutes, section 366.01, subdivision 10. Nothing contained herein shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation of this Ordinance, including, but not limited to, seeking a civil injunction or a restraining order.

## SECTION 32

### DATE OF EFFECT

This Ordinance shall become effective upon its adoption and the first day of publication.

ADOPTED BY THE TOWN BOARD OF ARTHUR, MINNESOTA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010

BY: \_\_\_\_\_  
Town Chairperson

ATTEST:

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