

**POMROY TOWNSHIP**

**KANABEC COUNTY**

**LAND USE AND ZONING  
ORDINANCE**

**Ordinance No. 2010-2**

**Adopted September 16, 2010**

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KANABEC COUNTY, MN

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**POMROY TOWNSHIP ZONING ORDINANCE**  
**KANABEC COUNTY, STATE OF MINNESOTA**

The Board of Supervisors of Pomroy Township ordains:

**SECTION 1**

**AUTHORITY FOR THE 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.

**SECTION 2**

**TITLE AND APPLICATION**

**Subd. 1.**

Title. This Ordinance shall be known as the "Pomroy Township Land Use and Zoning Ordinance." When referred to herein, it shall be known as "this Ordinance."

**Subd. 2.**

Intent. The intent of this Ordinance is to protect the public health, safety and general welfare of the Town and its people through the establishment of minimum regulations governing land development and use. This Ordinance shall divide the Town into use districts and establish regulations in regard to location, erection, construction, placement, reconstruction, alteration and use of structures and land.

**Subd. 3.**

Purpose. Such regulations are established to

1. Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population;
2. Provide for compatibility of different land uses;
3. Provide for the orderly development of land;
4. Protect and promote the public health, safety, convenience, and general welfare of the Town;
5. Provide for administration of this Ordinance;
6. Provide for amendments;
7. Prescribe penalties for violation of such regulations; and
8. Define powers and duties of the Town staff, the Board of Appeals and Adjustments, the Planning Commission, and the Town Board in relation to the Zoning Ordinance.

**Subd. 4.**

Jurisdiction. This Ordinance shall apply to all areas in Pomroy Township, Kanabec County, Minnesota, except areas within the incorporated limits of any city, however organized, or as may otherwise be provided by law.

**Subd. 5.**

Standard Requirement. Where the conditions imposed by any provisions 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 ordinance, rule, or regulation which imposes the more restrictive condition standard 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. In the event of conflicting provisions within the Sections of this Ordinance, the more restrictive provision shall apply.

**Subd. 6.**

Minimum Requirements. In the application of this Ordinance, the provisions shall be interpreted to be the minimum requirements necessary to accomplish the general and specific purposes of the Ordinance.

**Subd. 7.**

Regulations Administered by the County. All applicable County ordinances and regulations, including all sewer system standards, shoreland regulations, and subdivision regulations, shall be met in addition to the requirements of this Ordinance. Kanabec County is responsible for administering its own ordinances, and nothing herein shall be construed as the Town assuming responsibility for administering the County's regulations. Furthermore, the grant of permission or a permit by the Town does not relieve a person from having to comply with the County's regulations and to obtain any County required permissions or permits, just as the County's grant of permission or a permit does not relieve a person from having to comply with the Town's regulations and to obtain any Town required permissions or permits.

**Subd. 8.**

Compliance Required. No structure shall be erected, converted, enlarged, reconstructed, placed, or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Ordinance.

**Subd. 9.**

Land Use Permits. Except as herein provided, no building or structure shall be erected, converted, enlarged, reconstructed, altered, or occupied, and no building, structure, or land shall be used, for any purpose or in any manner which does not conform to the requirements of this Ordinance, including the issuance of any required permits. Permits issued pursuant to this Ordinance authorize only the particular use or structure specified in the application, permit, and approved plans.

**Subd. 10.**

Uses Not Provided for Within Zoning Districts. Whenever in any zoning district a use is not specifically allowed as a permitted use, conditional use, or interim use, the use shall be considered prohibited. A property owner who believes a use it desires to undertake is substantially similar to a use specifically allowed by this Ordinance for the district in which their property is located may apply to the Town requesting a determination that the use should be allowed. The application must fully explain the proposed use and how it is similar to a use allowed under this Ordinance. The Town Board shall determine whether the use is substantially similar and, if so, whether the use shall be deemed a permitted use or a use requiring a land use permit, Interim Use Permit, or a Conditional Use Permit for the purpose of this Ordinance. If the Town Board determines a use is allowed as being substantially similar to an allowed use, the applicant must apply for any required permits or permissions as required herein and otherwise comply with the provisions of this Ordinance. The Township shall keep a record of all uses it allows as being substantially similar and will, as part of the next general amendment to this Ordinance, include the use in this Ordinance as the Town Board determines is appropriate. If a

use is found not to be substantially similar, a property owner may initiate an amendment to the Zoning Ordinance to provide for a particular use in accordance with the procedures set out in this Ordinance.

**Subd. 11.**

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. 12.**

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. 13.**

Unpaid Zoning Fees. Any person that submits an application for a zoning request that owes the Town for past zoning related fees or costs, or if the application relates to property on which there are zoning related fees or costs owed to the Town, the application shall be deemed incomplete and shall not be accepted or processed until all such delinquent or past due amounts have been paid in full to the Town.

**Subd. 14.**

Prior Zoning Ordinances. This Ordinance supersedes and replaces all previous land use and zoning ordinances adopted by the Town, and all such previous land use and zoning ordinances are hereby repealed. The repeal of the Town’s previous land use and zoning ordinances does not itself affect the status of any use, structure, or lot that was not in conformance with the earlier ordinances.

**Subd. 15.**

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

- A. The singular includes the plural and the plural the singular.
- B. The present tense includes the past and future tenses and the future the present.
- C. The words “shall” and “must” are mandatory, and the word “may” is permissive.
- D. The masculine gender includes the feminine and neuter genders.
- E. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its

meaning shall be construed as set forth in such definition. If no set definition is given in this Ordinance, the word or term shall be construed according to the rules of grammar and according to their common and approved usage. Any question as to the meaning of a word or term used in this Ordinance shall be determined by the Town Board.

- F. All measured distances expressed in feet shall be to the nearest one-tenth (1/10) of a foot.
- G. General words are construed to be restricted in their meaning by preceding particular words.

**Subd. 16.**

Separability. It is hereby declared to be the intention of the Town 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 this 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.

SECTION 3

DEFINITION OF TERMS

The following words and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined.

**Subd. 1.**

Accessory Structure. A subordinate structure 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 use of such building or main use.

**Subd. 2.**

Agricultural Uses. These uses include field crop farming; pasture; the production of hay, fruit, trees, plants, shrubs or flower nursery; roadside produce stands in season; and livestock raising and feeding.

**Subd. 3.**

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

**Subd. 4.**

Buildable Area. The portion of a lot remaining after required yards have been provided which is capable of supporting the proposed structure(s).

**Subd. 5.**

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

**Subd. 6.**

Building Height. The vertical distance between the mean ground level and the highest gable on a pitched or hip roof or the uppermost point on other roof types.

**Subd. 7.**

Building Line. A line that defines the sides of a building, including cantilevered projections or structures.

**Subd. 8.**

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

**Subd. 9.**

Campground. An area containing campsites or camping spurs for tent and trailer camping.

**Subd. 10.**

Church. 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. 11.**

Commercial Recreational Facilities. Uses that include firearms range, gun clubs, hunting preserves, and campgrounds for which entrance or use fees are charged.

**Subd. 12.**

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

**Subd. 13.**

Communication Tower. A self-supporting lattice, guyed, or monopole structure constructed from grade that supports communication or broadcast equipment and related supporting facilities and structures.

**Subd. 13.**

Conditional Use. A use which requires reasonable but special limitations peculiar to the use for the protection of the public health, safety, and welfare and the integrity of the Town's Comprehensive Plan.

**Subd. 14.**

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. 15.**

Dwelling, Permanent. A permanent structure designated exclusively for residential occupancy, including single family homes and HUD-approved manufactured housing, for year-round residence. It also includes seasonal cabins, hunting shacks, park trailers or park models, and HUD-approved manufactured housing suitable for use during selected times of the year. It does not include hotels, motels, and boarding houses.

**Subd. 16.**

Dwelling, Temporary. A structure, including a tent, currently licensed recreational vehicle, currently licensed travel trailer, and currently licensed camper which can be moved and is designed exclusively for temporary occupancy for recreational purposes.

**Subd. 17.**

Essential Services. Underground or overhead gas, electrical, steam, or water distribution systems; collection, communication, supply, or disposal system including poles, wires, mains,

drains, sewer, 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. 18.**

Family. An individual or two or more persons related by blood or marriage or a group of not more than five unrelated persons living together on the premises or in a single housekeeping unit.

**Subd. 19.**

Farm. A tract of land which is principally used for commercial agriculture, all of which is owned and/or operated by a single family, individual or corporation.

**Subd. 20.**

Fence. A barrier forming a boundary to or enclosing some area.

**Subd. 21.**

Floor Area. The sum of the gross horizontal area of the several floors of the building measured from the exterior faces of the exterior walls.

**Subd. 22.**

Forestry. The management, as logging of a forest, woodland, or plantation, and related research and educational activities, including the construction, alteration, or maintenance of woodroads, skidroads, landings, and fences.

**Subd. 23.**

Garage. An accessory building or accessory portion of the primary structure 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.

**Subd. 24.**

Greenhouse. A structure primarily of glass or other durable, clear, or translucent material in which temperature and humidity can be controlled for the cultivation or protection of plants.

**Subd. 25.**

Hardship, Undue. The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, and the plight of the landowner is due to circumstances of his property not created by the landowner.

**Subd. 26.**

Home Occupation. An accessory use carried on by the occupant of a dwelling in connection with which there is no display other than a professional name plate, no one is employed other than immediate members of the family residing on the premises, and the activities are conducted within the dwelling or accessory building.

**Subd. 27.**

Home-based Commercial Enterprise. Any gainful occupation or profession engaged in by any occupant of a dwelling which is clearly incidental and secondary to the use of the dwelling for residential purposes and which has the potential for generating a noticeable increase in traffic, requires additional parking, or involves employees not residing in the home.

**Subd. 28.**

Industrial Use, Light. Any establishment, occupation, employment, or enterprise where the manufacturing, storage, or warehousing of products and materials occur which does not require public sewer or water service.

**Subd. 29.**

Interim Use. A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it (Minnesota Statutes Section 462.3597).

**Subd. 30.**

Junk. Old or scrap hazard signs, copper, brass, rope, rags, batteries, tires, paper, synthetic or organic trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, farm equipment or construction machinery or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

**Subd. 31.**

Kennel. Any place where four (4) or more dogs or other small domestic animals over six (6) months of age are boarded, bred, or offered for sale, except veterinary clinics. Kennels shall be considered a commercial use for the purposes of this Ordinance.

**Subd. 32.**

Loading Space. A space accessible from a public road and in a building or on the lot for the use of trucks while loading or unloading merchandise or materials. Such space shall be of such size as to accommodate one (1) truck of the type typically used in the particular business.

**Subd. 33.**

Lot. Land occupied or to be occupied by one (1) primary structure or use and its accessory buildings, together with such open spaces as are required under the provisions of this Zoning Ordinance.

**Subd. 34.**

Lot Area. The area of a horizontal plane within the lot lines.

**Subd. 35.**

Lot, Corner. A lot situated at the junction of and abutting on two (2) or more intersecting roads; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty-five (135) degrees or less.

**Subd. 36.**

Lot, Frontage. The front of a lot shall be that boundary abutting a public right-of-way.

**Subd. 37.**

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 road right-of-way.

**Subd. 38.**

Lot, Of Record. A lot or parcel of land whose existence, location, and dimensions have been recorded in the Office of the Kanabec County Recorder prior to the Town's first adoption of a zoning ordinance imposing minimum lot sizes.

**Subd. 39.**

Lot, Width. The shortest horizontal distance between the side lot lines measured at the right angles at the building line and front lot line.

**Subd. 40.**

Manufactured Home. A single-family house constructed entirely in a controlled factory environment and built to the federal Manufactured Home Construction and Safety Standards or HUD Code.

**Subd. 41.**

Mining Operation - Commercial. The removal from the land and sale of one thousand (1,000) cubic yards of stone, sand and gravel, iron, copper, nickel, granite, petroleum products, or other material for commercial, industrial, or governmental purposes.

**Subd. 42.**

Motor Vehicle. Any device propelled or drawn by any power other than muscular power in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting building and road construction equipment not subject to motor vehicle registration fees, snowmobiles, three-wheel off-road vehicles, boat, snowmobile, and other utility trailers, farm tractors, and agricultural machinery not designed primarily for highway transportation, but which may incidentally transport persons or property on a public highway, or any other device which may not be lawfully operated upon a highway at the time of sale.

**Subd. 43.**

Nonconforming Structure or Use. Any structure or use 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 under the guidance of this Ordinance.

**Subd. 44.**

Nursery. A place where young trees or other plants are raised for transplanting, for sale, or for

experimental study.

**Subd. 45.**

Parking Space. An area of not less than nine (9) feet in width and nineteen (19) feet in length, enclosed in the main building, in an accessory building, or unenclosed, sufficient in size to store one (1) automobile which has adequate access to a public road and permitting satisfactory ingress and egress of an automobile.

**Subd. 46.**

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

**Subd. 47.**

Planning Commission. The planning advisory board of the Town and designated by the Town Board.

**Subd. 48.**

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

**Subd. 49.**

Protected Waters. Any waters of the State which serve a beneficial public purpose, as defined in Minnesota Statutes Section 103G.201. A body of water created by a private user where there was no previous shoreland, as defined herein, for a designated private use authorized by the State of Minnesota shall be exempt from the provisions of these regulations.

**Subd. 50.**

Public Road. For the purpose of this Ordinance public roads shall include only those roads which are dedicated or under easement for public use or owned by the Township, County, State, or Federal Government.

**Subd. 51.**

Public Uses. Uses owned or operated by a municipality; school district; or town, county, state or other governmental units.

**Subd. 52.**

Setback. The minimum horizontal distance between a structure or sanitary facility and a road or highway right-of-way or property lot line, or between a structure or sanitary facility and the ordinary high water mark.

**Subd. 53.**

Sewer System. A subsurface sewage treatment system as defined in Minnesota Rules, part 7080.1100, subpart 82.

**Subd. 54.**

Shoreland. Land located within the following distances from public water: (i) 1,000 feet from the ordinary high water mark of a lake, pond, or flowage; and (ii) 300 feet from a river or stream; or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner. For the purpose of this Ordinance, the shoreland area shall be determined by the Kanabec County Shoreland ordinance and subject to that ordinance.

**Subd. 55.**

Slope. The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.

**Subd. 56.**

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 and/or composed of parts joined together in some definite manner whether temporary or permanent in character, including decks and signs.

**Subd. 57.**

Substandard Use. Any use existing prior to the date of this Ordinance which is permitted within the applicable zoning district but does not meet the minimum lot area, frontage, setbacks, water frontage length, or other dimensional standards of this Ordinance.

**Subd. 58.**

Telecommunications Facilities. Cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of telecommunications located or installed on or adjacent to a tower or antenna support structure. The term does not include a satellite earth station antenna two meters in diameter or less located in an industrial or commercial district; a satellite earth station antenna one meter or less in diameter, wherever located; or a tower.

**Subd. 59.**

Tower Facility. A tower and its appurtenant devices including, but not limited to, antennae, buildings, fences, gates, and related equipment.

**Subd. 60.**

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 shall include the performance of such activity as defined by the performance standards of this Ordinance.

**Subd. 61.**

Variance. The allowed deviation from the literal provisions of this Ordinance in instances where their strict enforcement would cause undue hardship because of physical circumstances unique to the individual property under consideration.

**Subd. 62.**

Wetlands. Lands as defined in Minnesota Statutes Section 103G.005, Subd. 19. Wetlands.

**Subd. 63.**

Wind Energy Conversion System (WECS). An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to power lines, transformers, substations, and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electric grid. The total nameplate capacity of all WECS located on the same parcel of property shall be added together to determine whether they are commercial or non-commercial WECS under this Ordinance.

**Subd. 64.**

Wind Energy Conversion System, Commercial (Commercial WECS). Any combination of WECS with a combined nameplate capacity of 100 kilowatts or more.

**Subd. 65.**

Wind Energy Conversion System, Large (Large WECS). Any combination of WECS with a combined nameplate capacity of 5,000 kilowatts or more.

**Subd. 66.**

Wind Energy Conversion System, Non-Commercial. Any combination of WECS with a combined nameplate capacity of less than 100 kilowatts.

**Subd. 67.**

Yard. An open space on the lot which does not contain structures. 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. 68.**

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. 69.**

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. 70.**

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. 71.**

Zoning Administrator. A person appointed by the Town Board to administer and enforce the Zoning Ordinance.

**Subd. 72.**

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

**SECTION 4.**

**ZONING DISTRICT PROVISIONS**

**Subd. 1.**

Establishment of Districts. The following zoning districts are hereby established within Pomroy Township:

Agricultural-Residential District  
Shoreland Overlay District

**Subd. 2.**

Map. The location and boundaries of the districts established by this Ordinance are designated on the "Zoning Districts Map," a copy of which is contained in Appendix A and is incorporated herein by reference.

**Subd. 3.**

Detachment. In the event of changes in the Town boundaries removing territory from the Town, district boundaries shall be interpreted as moving with Town boundaries.

**Subd. 4.**

Zoning District Boundaries.

- A. Boundaries indicated as approximately following the center lines of streets, highways, alleys, or railroad lines shall be interpreted to follow such center lines.
- B. Boundaries indicated as approximately following lot lines shall be interpreted as following such lot lines.
- C. Boundaries indicated as following shorelines shall be interpreted to follow such shorelines and, in the event of change in shoreline, shall be interpreted as moving with the actual shoreline. Boundaries indicated as approximately following the center lines of streams, rivers, lakes, or other bodies of water shall be interpreted to follow such center lines.
- D. Boundaries indicated as approximately following the Town boundaries shall be interpreted as following such boundaries.
- E. Where a district boundary line divides a lot which was in a single ownership at the time of passage of this Ordinance, the extension of the regulations for either portion of the lot may be interpreted by the Zoning Administrator upon request of the owner.
- F. The exact location of all district boundaries shall be interpreted by the Zoning Administrator, subject to appeal as provided herein.

**Subd. 5.**

District Regulations. The regulations of this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land use.

**SECTION 5.**

**AGRICULTURAL-RESIDENTIAL DISTRICT**

**Subd. 1.**

Purpose. The Agricultural-Residential District is intended to provide a district which will allow suitable areas of the Township 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.**

Permitted Uses. The following uses are permitted:

- A. Buildings which are designed and used for purposes related to the operation of a farm for agricultural production purposes.
- B. Agricultural production which shall include the raising of crops and livestock or animals not typically regarded as domestic pets for sale, profit, or pleasure.
- C. Greenhouse or nursery.
- D. Forestry.
- E. Wildlife areas, forest preserves, public parks owned or operated by a government agency or nonprofit organization, and other open space uses.
- F. Temporary or seasonal roadside stands for sale of agricultural products.
- G. Permanent single family residential housing, including HUD-approved manufactured homes.
- H. Permanent dwellings used seasonally, including cabins, hunting shacks, park trailers or park models, and HUD-approved manufactured homes.
- I. Temporary housing which is moveable and used for recreational purposes, including tents, currently licensed recreational vehicles, currently licensed travel trailers, and currently licensed campers.
- J. Essential services.
- K. Non-commercial Wind Energy Conversion Systems (WECS).
- L. Home occupations.

M. Accessory uses, including:

1. Any structure or use which is incidental to the permitted principal use, including garages, sheds, fencing, and landscaping.
2. Operation and storage of vehicles, equipment, and machinery which is incidental to the permitted principal use.

**Subd. 3.**

Conditional Uses. The following uses may be permitted upon the issuance of a Conditional Use Permit as provided for in Section 7:

- A. Commercial recreational facilities, parks, and campgrounds.
- B. Organized group camps.
- C. Commercial extraction of sand, gravel, black dirt, peat, minerals, or rock.
- D. Two-family residences.
- E. Churches.
- F. Home-based commercial enterprises.
- G. Light industrial.
- H. Governmental or private club buildings.
- I. Kennels.
- J. Communication towers seventy (70) feet tall or taller.
- K. Commercial Wind Energy Conversion Systems (WECS).

Conditions. When issuing a Conditional Use Permit, the Town Board may place 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 the permit. (See Section 7.)

**Sub. 4.**

Interim Uses. The following uses may be permitted upon the issuance of an Interim Use Permit:

- A. Accessory Residences. An Interim Use Permit may be issued for not more than one accessory residence to be placed or constructed on the same lot as an existing principal residence in the following cases:

1. Accessory Residence During Construction of Permanent Dwelling. A twelve (12) month Interim Use Permit, renewable for one additional twelve (12) month period, may be issued to allow a manufactured home to be placed and occupied on the same site as the permanent dwelling while it is being constructed, provided:
  - (a) A land use permit for the permanent dwelling has been issued.
  - (b) An approved sewer system has been installed on the site to serve the accessory residence.
  - (c) The accessory residence shall not be subsequently divided from the original parcel or lot unless all density, lot, and setback provisions of this Ordinance are met.
  
2. Accessory Residence for Health Care Reasons. A twelve (12) month, renewable Interim Use Permit may be issued to allow a manufactured home to be placed and occupied on the same lot as the principal residence when the person(s) occupying the accessory residence or principal residence requires close supervision due to health reasons, yet are capable of independent living, provided:
  - (a) A documented medical condition exists which requires the need for a closely supervised independent living arrangement.
  - (b) An approved sewer system exists on the site to accommodate the accessory residence.
  - (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.
  
3. Accessory Residence for Farm Employees. A twelve (12) month renewable Interim Use Permit may be issued to allow the placement of a manufactured home on a farm to provide housing for a person(s) or family which is actively engaged in the operation of the farm for agricultural production purposes, provided:
  - (a) The major portion of the livelihood of the person(s) or family residing in the accessory residence is derived from agricultural production on the farm.
  - (b) An approved sewer system exists on the site to accommodate the accessory residence.
  - (c) The accessory residence shall not be subsequently divided from the farm unless all density, lot, and setback provisions of this Ordinance are met.

Conditions. When issuing or renewing an Interim Use Permit for an accessory residence, 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 the permit. (See Section 8.)

When conditions change, whereby the purpose and conditions of this Subdivision are no longer met, the accessory residence may remain and be occupied through the term of the permit.

The accessory residence shall be removed from the lot within ninety (90) days of the expiration date of the permit.

**Subd. 5.**

Residential Density Requirements – Permanent Dwellings. No more than two (2) dwelling units per quarter (1/4) of a quarter (1/4) section or government lot, including existing dwellings, are permitted. Existing parcels or lots of record shall be considered buildable, notwithstanding this density requirement. All dwelling lots shall front an existing public road, except for parcels and lots located within interior quarter/quarter sections (not fronting a public road) for which an individual access easement of no less than thirty-three (33) feet wide to an existing public road is required.

Residential Density Requirements – Temporary Dwellings. No more than six (6) temporary dwellings may be erected, parked, constructed, or otherwise situated on any given lot at any given time. Such units may only be used for dwelling purposes for a period not to exceed ninety (90) consecutive days or more than ninety (90) days of a one hundred eighty (180) day period.

**Subd. 6.**

Property Split. A split of a property of less than one-quarter (1/4) of one-quarter (1/4) of a section of land (i.e. 40 acres) or government lot within the Agricultural-Residential District must be surveyed by a surveyor accredited in the State of Minnesota and a copy of the Certificate of Survey given to the Township.

**Subd. 7.**

Lot Area Requirements.

- A. Lot Area. A lot area of not less than ten (10) acres is required, of which an area of at least one (1) contiguous acre is determined to be buildable.
- B. Lot Width. A lot width of not less than three hundred thirty (330) feet at the building line and front lot line is required for each dwelling unit.

**Subd. 8.**

Front, Side, and Rear Yard Requirements.

- A. Front Yard. A front yard is required and shall be not less than the following distances between the center line of the road or the right-of-way and building line:
1. County or county/state-aid highways - 130 feet from center line.
  2. Township roads - 100 feet from center line.
  3. In no case shall the building setback be less than 35 feet from the right-of-way.
- B. Side Yard. Two side yards are required, each having a width of not less than thirty (30) feet.
- C. Rear Yard. A rear yard of not less than thirty (30) feet from rear lot line and nearest line of building is required.

**SECTION 6.**

**LAND USE PERMITS – PERMITTED USES**

**Subd. 1.**

Purpose. The purpose of this Section is to provide a process for requesting a land use permit for a use listed as “permitted” under Section 5, Subd. 2.

**Subd. 2.**

Land Use Permits Required. A land use permit must be obtained before proceeding with the construction, placement, or relocation of a structure, or the enlargement of the exterior dimension of a structure, or to change the use of any building or structure, unless exempt.

**Subd. 3.**

Exemptions. An accessory building one hundred twenty (120) square feet or less shall not require a permit for construction or to be moved.

**Subd. 4.**

Application and Issuance of Permit.

- A. Requests for land use permits shall be filed with the Zoning Administrator on the Town’s official application form. Each application for a permit shall be accompanied by a site and floor plan drawn to scale and showing the dimensions of the lot to be built upon; the size and location of the principal and accessory buildings, parking areas, and sewer system; such additional information deemed necessary for the proper review and enforcement of this Ordinance; and a land use permit fee as established by the Board of Supervisors in the Fee Ordinance.
  
- B. The Zoning Administrator shall approve the land use permit application only when the following conditions are met:
  - 1. The plan complies with this Ordinance and other applicable ordinances.
  - 2. A Certificate of Compliance for an on-site sanitary sewer system, if required, has been issued by Kanabec County Environmental Services.
  - 3. The required fee has been paid.

**Subd. 5.**

Expiration of Permit. Applications for land use permits shall be considered nullified if the proposed action, including installation of a Kanabec County-approved on-site sanitary sewer system, is not completed within a period of one (1) year from the date of application. A permit extension may be granted by the Town Board if substantial progress has been made on the project and completion can be accomplished within an identified reasonable time period.

SECTION 7.

CONDITIONAL USE PERMITS

**Subd. 1.**

Purpose. The purpose of this Section is to provide a process for requesting a Conditional Use Permit, reviewing the request, and approving or denying the application.

**Subd. 2.**

Procedure for Requesting, Reviewing, and Approving or Denying A Conditional Use Permit.

- A. Requests for Conditional Use Permits, as provided for within this Ordinance, shall be filed with the Zoning Administrator on the Town's official application form. Such application shall also be accompanied by the application fee and copies of detailed written and graphic materials fully explaining the proposed change, development, or use. The Zoning Administrator shall refer said application, along with all related information, to the Town Planning Commission for consideration.
- B. The Zoning Administrator shall set a date for a public hearing on behalf of the Planning Commission after consulting with Planning Commission members on their availability to attend the hearing. A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the Town at least ten (10) days prior to the date of the hearing. A similar notice shall also be mailed not less than ten (10) days prior to the hearing to all property owners of record, according to the county assessment records, within one quarter (1/4) mile) of the affected property. A copy of this notice shall also be sent to anyone with a current request to receive such notices. A copy of the notice and a list of the property owners and addresses to which the notice was sent shall be prepared by the Zoning Administrator or Town Clerk 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.
- C. The Planning Commission shall conduct the public hearing and consider the request. The applicant or a representative thereof shall appear before the Planning Commission at the hearing in order to answer questions concerning the proposed conditional use.
- D. The Planning Commission and Town staff shall have the authority to request additional information from the applicant concerning planned use of the property or operational factors, or to obtain assistance from professional consultants at the expense of the applicant.
- E. The Planning Commission shall develop a recommendation regarding the proposal, any recommended conditions, and supporting Findings of Fact to be forwarded to the Town Board.

1. The Planning Commission shall consider possible adverse affects of the proposed conditional use. Its judgment as to possible adverse affects may be based upon, but not limited to, the following factors:
  - (a) Relationship to the Town's Comprehensive Plan and Policies.
  - (b) The extent to which the use will or will not create an excessive demand on public services and facilities.
  - (c) Whether or not the use will be sufficiently compatible or separated by distance or screening from adjacent development or land so that existing development will not be depreciated in value and there will be no deterrence to development of vacant land.
  - (d) The extent to which the appearance of the structure and site will or will not have an adverse effect upon adjacent properties.
  - (e) Whether or not the use is reasonably related to and consistent with the overall development goals of the Town and to the existing land uses.
  - (f) The extent to which the use is consistent with the purposes of this Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
  - (g) The extent to which the use will or will not cause traffic hazards or congestion.
2. When developing recommended conditions related to a particular request, the Planning Commission may consider the following.
  - (a) The land area and setback requirements of the property containing such a use or activity shall be at least the minimum established by the Ordinance.
  - (b) When abutting a residential use, 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) All signs shall not adversely impact adjoining or surrounding residential uses.
  - (e) Adequate off-road parking and loading shall be provided. Such parking and loading shall be screened and landscaped from abutting residential uses.

- (f) The road 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.
  - (g) All access roads, driveways, parking areas, and outside storage, service, or sales areas shall be surfaced to control dust.
  - (h) All lighting shall be designed and shrouded or covered by a lens as to have no direct source of light visible from adjacent residential areas or from the public streets.
  - (i) The use or activity 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 depreciation in property values or constitute a blighting influence.
  - (k) Where structures combine residential and nonresidential uses, such uses shall be separated and provided with individual outside access, and the uses shall not conflict in any manner.
3. The Planning Commission may recommend such additional restrictions or conditions as deemed necessary to protect the public interest. These may include, but are not limited to, the following:
- (a) Matters relating to the architecture or appearance.
  - (b) Establishing hours of operation.
  - (c) Increasing the required lot size or yard dimension.
  - (d) Limiting the height, size, or location of buildings.
  - (e) Controlling the location and number of vehicle access points.
  - (f) Increasing the number of required off-street parking spaces.
  - (g) Limiting the number, size, location, or lighting of signs.
  - (h) Requiring diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.

- F. Upon receiving the report and recommendation of the Planning Commission, the Town Board shall place the report and recommendation on the agenda for the next regular meeting. Such reports and recommendations shall be entered into and made part of the permanent written record of the Town Board meeting.
- G. The recommendation of the Planning Commission shall be advisory to the Town Board. The Town Board shall make the final decision regarding the permit and the conditions placed thereon.
- H. The Town shall record, at the applicant's expense, a certified copy of all Conditional Use Permits issued in the office of the County Recorder.

**Subd. 3.**

Lapse of Conditional Use Permit by Non-Use. Whenever within one (1) year after granting a conditional use permit the work or use has not substantially begun, then such permit shall become null and void unless a written extension of time has been granted by the Town Board. Such extension shall be requested in writing and filed with the Zoning Administrator or Town Clerk at least thirty (30) days before the end of the first year from the date of issuance. There shall be no charge for the filing of such a request. The request for extension shall state facts showing a good faith attempt to complete the work or initiate the use permitted in the Conditional Use Permit within the initial year. Such request shall be presented to the Planning Commission for a recommendation and then to the Town Board for a decision. The Town may only grant one extension per permit and, if the work is not completed or the use substantially begun within the extension period, the permit shall become null and void. Upon lapse of a Conditional Use Permit, the County Recorder shall be notified of the nullification of the permit.

**SECTION 8.**

**INTERIM USE PERMITS**

**Subd. 1.**

Purpose. The purpose of this Section is to provide a process for requesting an Interim Use Permit, reviewing the request, and approving or denying the application.

**Subd. 2.**

Procedure for Interim Uses.

- A. Requests for Interim Use Permits, as provided for within this Ordinance, shall be filed with the Zoning Administrator on the Town's official application form. Such application shall also be accompanied by the application fee and copies of detailed written and graphic materials fully explaining the proposed interim use. The Zoning Administrator shall refer said application, along with all related information, to the Town Planning Commission for consideration.
- B. The Zoning Administrator shall set a date for a public hearing on behalf of the Planning Commission after consulting with Planning Commission members on their availability to attend the hearing. A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the Town at least ten (10) days prior to the date of the hearing. A similar notice shall also be mailed not less than ten (10) days prior to the hearing to all property owners of record, according to the county assessment records, within one quarter (1/4) mile) of the affected property. A copy of this notice shall also be sent to anyone with a current request to receive such notices. 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 or Town Clerk 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.
- C. The Planning Commission shall consider the request and hold a public hearing. The applicant or a representative thereof shall appear before the Planning Commission at the hearing in order to answer questions concerning the proposed interim use.
- D. The Planning Commission and Town staff shall have the authority to request additional information from the applicant.
- E. The Planning Commission shall make a recommendation to the Town Board regarding the requested permit, including any recommended conditions, together with Findings of Fact to support its recommendations. The Planning Commission's recommendations are advisory to the Town Board.

- F. Upon receipt of the Planning Commission's report and recommendations, the Town Board shall consider the request at a board meeting and make the final decision regarding the permit and the conditions placed thereon.
  
- G. An Interim Use Permit may be granted if the following conditions are met:
  - 1. The use conforms to the zoning regulations.
  
  - 2. The event or date that will terminate the use can be identified with certainty.
  
  - 3. The applicant agrees to any conditions that the governing body deems appropriate and imposes on the permit. Acceptance of the permit and the undertaking of any part of the work or use allowed under the permit shall be deemed agreement by the applicant of the conditions imposed on the permit.

**SECTION 9.**

**COMMUNICATION TOWERS AND WIND ENERGY CONVERSION SYSTEMS**

**Subd. 1.**

Purpose. These standards regulate the placement and design of communication tower structures and telecommunications facilities and of wind energy conversion systems (WECS) within the Town in order to ensure their compatibility with surrounding aesthetics and land uses and to protect the public health, safety, and welfare of the Town.

**Subd. 2.**

Applicability.

- A. It shall be unlawful for any person to erect, construct, or place any new communication tower or Commercial WECS, or to replace, or modify by expanding its height or, for communication towers, adding telecommunication facilities to a tower in the Town without first receiving a Conditional Use Permit from the Town. No new communications tower shall be built, constructed, or erected unless it is capable of supporting additional telecommunication facilities other than what the applicant is proposing. Communication towers and WECS must comply with all applicable Local, County, State, and Federal regulations.
- B. Non-commercial WECS are a permitted use within the Town provided the aggregate nameplate capacity of all WECS on the same property do not exceed one hundred (100) kilowatts and otherwise comply with the standards in the section.
- C. The provisions contained herein shall not govern any privately owned communication tower or the installation of any antenna that is under seventy (70) feet in height and either operated by a federally licensed amateur radio station operator or used exclusively as a receive-only antenna.
- D. Nothing herein is intended to regulate large WECS permitted by the State pursuant to Minnesota Statutes Chapter 216F, Minnesota Rules, Chapter 7836, and such other law as may apply, and which are exempt from local regulation under Minnesota Statutes Section 216F.07.

**Subd. 3.**

Performance Standards – Communication Towers and Telecommunication Facilities.

- A. Newly constructed or modified towers and antennas shall be certified by a qualified and licensed professional engineer.
- B. No tower shall be lighted, except as required by FAA rules. When required, lighting shall be of a type, color, and intensity so as to minimize visual intrusiveness, particularly at night.

- C. A tower shall be located so as to comply with the following minimum setback requirements. Setbacks shall be measured from the base of the tower.
  - 1. 1.1 times total height from property lines.
  - 2. 1.25 times total height from neighboring dwellings.
  - 3. 1.1 times total height from nearest edge of public rights-of-way.
  
- E. Guy wires for towers shall meet the structure setback of the underlying zoning district.
  
- F. The use of any portion of a tower for signs other than warning or equipment information is prohibited.
  
- G. Towers, tower facilities, and antennas in existence prior to establishment of this Ordinance that do not conform to or comply with this Ordinance may continue in use, but may not be replaced or structurally altered without complying in all respects with the provisions of this Ordinance.
  
- H. Abandoned or unused towers and associated facilities shall be removed within twelve (12) months following cessation of operations at the site unless a time extension is approved by the Zoning Administrator.
  
- I. Telecommunication facilities must be co-located on existing communication towers, unless it can be documented that it is impractical to co-locate on an existing tower because of technical performance or system coverage or because the system capacity of an existing structure cannot support co-location from a structural engineering standpoint. The determination that co-location on an existing structure is not practical because of technical performance, system coverage, or system capacity shall be supported by findings from a qualified engineer. The Town may hire a qualified engineer, at the applicant’s expense, to verify the applicant’s findings.
  
- J. New communication towers shall be designed and constructed to permit the future co-location of other commercial wireless telecommunications services, according to the following criteria:

<u>Height of Structure</u>	<u>Number of Co-location Required</u>
70’ or less	No co-location required
Between 70’ and 135’	1 additional user accommodated
135’ or greater	2 additional users accommodated

In satisfying co-location requirements, the owner of the tower must provide adequate access to the tower site and space within the owned or leased area to accommodate the co-location user’s equipment needs. Nothing in these regulations shall prevent the owner of the tower from requiring a remuneration from a co-location user. The owner of the tower may also establish reasonable technical requirements for co-location to protect the owner’s investment

and guarantee effective telecommunications service.

- K. All communication towers and telecommunication facilities shall comply with all applicable Local, State, and Federal laws, rules, regulations, and ordinances.

**Subd. 5.**

Conditional Use Permit Application Requirements – Communication Towers and Telecommunication Facilities. The Zoning Administrator may contract with an independent technical expert to review technical materials submitted by the applicant and/or to determine if additional information is needed. The applicant shall pay the cost of such review and/or independent analysis. In addition to the general requirements for Conditional Use Permit applications, all applications for new communication towers or telecommunication facilities must also include the following:

- A. Site plans drawn to scale specifying the location of the tower facility, support structures, transmission buildings, and/or other accessory structures and uses, accesses, parking areas, fences, signs, lighting, landscaped areas, and all adjacent land uses within two hundred fifty (250) feet of the tower facility, including all support structures and security fencing.
- B. A signed lease on behalf of a carrier stating that, once the tower is constructed, the carrier will be leasing the tower within one (1) year after completion.
- C. Documentation demonstrating that the tower is designed in compliance with a qualified engineer licensed by the State of Minnesota.
- D. Documentation that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the coverage area.
- E. A written statement acknowledging that any unused or abandoned tower and associated facilities shall be removed by the tower owner and/or applicant within twelve (12) months of the tower being vacated. Said agreement shall be signed by the applicant and the property owner and shall be attached to and become part of the Conditional Use Permit.

**Subd. 6.**

Performance Standards -- Non-Commercial WECS.

- A. The manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation, and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
- B. Rotor blades must maintain at least fifteen (15) feet of clearance between their lowest point and the ground.
- C. A WECS shall be located so as to comply with the following minimum setback requirements.

Setbacks shall be measured from the base of the WECS.

1. 1.1 times total height from property lines.
  2. 1.25 times total height from neighboring dwellings.
  3. 1.1 times total height from nearest edge of public rights-of-way.
- D. A WECS shall have a total height (from ground level to top of highest rotor tip) of no more than one hundred (100) feet.
- E. A WECS shall not produce vibrations through the ground that are humanly perceptible beyond the property on which the WECS is located.
- F. No lighting shall be allowed, except as may be required by FAA rules.
- G. A WECS shall be installed with a tubular, monopole type tower. Rooftop WECS are prohibited.
- H. The turbine and tower shall be white, grey, or another non-reflective, non-obstructive color. Finishes shall be matte or non-reflective.
- I. A WECS shall comply with all applicable Local, State, and Federal laws, rules, regulations, and ordinances.

**Subd. 7.**

Performance Standards – Commercial WECS.

- A. A Minnesota licensed engineer shall certify that the turbine, foundation, and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
- B. Rotor blades must maintain at least thirty (30) feet of clearance between their lowest point and the ground.
- C. The WECS shall be installed with a tubular, monopole type tower.
- D. The WECS shall be equipped with both a manual and an automatic braking device capable of stopping the WECS operation in high winds (40 miles per hour or greater).
- E. The WECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code.
- F. A sign or signs shall be posted on the tower, transformer, and substation warning of high voltage, stating the manufacturer's name and listing an emergency phone number.
- G. The WECS shall have a total height (from ground level to top of highest rotor tip) of no more

than one hundred fifty (150) feet.

- H. A WECS shall be located so as to comply with the following minimum setback requirements. Setbacks shall be measured from the base of the WECS.
  - 1. 1.25 times total height from property lines.
  - 2. 1.5 times total height from neighboring dwellings.
  - 3. 1.25 times total height from nearest edge of public rights-of-way.
- I. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by FAA permits and regulations. No additional lighting, other than building security lighting, is permitted.
- J. The turbine and tower shall be white, grey, or another non-reflective, non-obstructive color. Finishes shall be matte or non-reflective.
- K. The design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening, and landscaping that will blend the WECS to the natural setting and the existing environment.
- L. The manufacturer's or owner's company name and/or logo may be placed on the nacelle of the WECS. No other signage, other than as required in this Section, shall be permitted.
- M. All solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable Local, State, and Federal regulations.
- N. Maximum Vibration and Shadow Flicker.
  - 1. No Commercial WECS shall produce vibrations through the ground that are humanly perceptible beyond the property on which it is located.
  - 2. Commercial WECS shall include a shadow flicker analysis study with the application submission.
- O. A WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Town outlining the steps and schedule for returning the WECS to service. All WECS and accessory buildings shall be removed in their entirety, including all footings and foundations, within ninety (90) days of the discontinuation of use. At the time of application, a decommissioning plan outlining the anticipated means and cost of removing the WECS at the end of its serviceable life or upon becoming a discontinued use shall be submitted. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS

and accessory facilities. The decommissioning plan shall be submitted as part of the Conditional Use Permit application. The Town may require financial surety in the form of a cash escrow, irrevocable letter of credit, or performance bond to ensure that decommissioning of the WECS is completed.

- P. The WECS shall have a climbing apparatus located no closer than twelve (12) feet to the ground or be un-climbable by design for the first twelve (12) feet.
- Q. The WECS shall be located such that it does not unreasonably interfere with television and other communication signals. No WECS shall be constructed so as to interfere with public safety communications.
- R. The WECS shall be in compliance with any applicable airport zoning and shall comply with Federal Aviation Administration notification requirements and any other FAA regulations.
- S. The WECS shall not create stray voltage that will adversely affect adjacent properties.
- T. The WECS shall comply with all applicable Local, State, and Federal laws, rules, regulations, and ordinances.

**Subd. 8.**

Conditional Use Permit Application Requirements – Commercial WECS. In addition to the general requirements for Conditional Use Permit applications (see Section 7), all applications for new commercial WECS must also include the following:

- A. A scaled drawing showing the location of the proposed WECS, including any auxiliary equipment.
- B. Property lines and physical dimensions of the lot, including the location and size of any obstructions within three hundred (300) feet that would be pertinent in the consideration of the permit request.
- C. Clearance distances between the farthest extension of the WECS blades to the property lines.
- D. Locations, dimensions, and types of existing structures and uses on the lot, including the location of all above ground utility lines within a distance equivalent to the total height of the proposed WECS.

**SECTION 10.**

**SHORELAND OVERLAY DISTRICT**

**Subd. 1.**

Purpose. The Shoreland Overlay District serves to impose additional regulations on the development of land within designated shoreland areas within the Township. Property within shoreland areas, as defined by State law, are considered to be within the Shoreland Overlay District and are subject to the regulations within the Kanabec County Shorelands Management Ordinance as well as the regulations established in this Ordinance for the underlying zoning district in which the property is located.

**Subd. 2.**

Administration. Kanabec County shall be responsible for administering and enforcing the provisions of its Shorelands Management Ordinance and the Town shall be responsible for administering and enforcing the regulations of this Ordinance applicable to the underlying zoning district. If there are any conflicts between the provisions of the two ordinances, the more restrictive provision shall apply.

**SECTION 11.**

**BUILDING REQUIREMENTS**

**Subd. 1.**

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

**Subd. 2.**

Building Standards.

- A. Prohibited Building Sites. No buildings shall be permitted on areas considered as wetlands, floodplain, or peat or muck soils; areas subject to severe wind and water erosion; areas having poor drainage; areas where the water table depth is less than four (4) feet; areas of exposed bedrock (soil depth of less than six (6) inches); or on slopes in excess of twelve (12) percent.
- B. Dwelling Size. All dwellings shall have a minimum finished livable space of at least seven hundred twenty (720) square feet.
- 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 must be zoned for use in Minnesota, as indicated by the serial number. If the seal is no longer affixed to the home, the owner is required to obtain the alternative certification provided by HUD. Appliances must be certified for use in a manufactured home.
- D. 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 in compliance with all other zoning provisions promulgated pursuant to Minnesota Statutes Section 462.357.
- E. Height Restrictions. No primary structure shall exceed thirty-six (36) feet in height, and no accessory structure shall exceed eighteen (18) feet in height. Structures used primarily for agricultural purposes and wind energy systems are exempt from these height restrictions.
- F. Use Restrictions. No garage or accessory building shall at any time be used as a dwelling unit. No tent, recreational vehicle, travel trailer, or camper shall be used as a permanent dwelling unit.
- G. Future Roads. All buildings shall be so placed so that they will not obstruct future roads

which may be constructed by the Town in conformity with existing roads and according to the system and standards employed by the Town.

- H. Not more than one (1) primary structure shall be located on a lot. In case of 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.**

Accessory Structures and Uses.

- A. Not more than three (3) detached accessory structures, plus one (1) storage shed of not more than one hundred-twenty (120) square feet, shall be allowed on lots of ten (10) acres or less.
- B. No accessory building or structure, other than a fence or a temporary construction office, shall be permitted on any lot prior to the time of construction of the primary structure to which it is accessory. A private garage may be located on the lot with the issuance of a land use permit prior to construction of the residence provided it is used only for storage purposes pertaining to the construction of the principal structure.

SECTION 12.

YARD AND LOT AREA REQUIREMENTS

**Subd. 1.**

Purpose. The purpose of this Section is to determine minimum yard and lot area requirements to be applied to all zoning districts under the jurisdiction of the Town.

**Subd. 2.**

Yard Requirements. The minimum yard setback distances from the appropriate lot line are set forth within the district provisions of this Ordinance and are in addition to the following requirements:

- A. Corner Lots. Where a lot is located at the intersection of two (2) or more roads, the width of the yard along the side road shall not be less than the required front yard.
- B. Through Lots. On a lot fronting on two (2) parallel roads, both road lines shall be considered front lot lines for applying the yard regulations of this Ordinance.
- C. Earth Sheltered Buildings. Computations for yard requirements for earth sheltered buildings shall be based upon measurements from the exposed exterior surface of the building.
- D. Exceptions. The following shall not be considered as encroachment into yard setback requirements:
  - 1. Architectural projections including chimneys, flues, leaders, sills, pilasters, lintels, ornamental features, mechanical devices, cornices, eaves, gutters, and the like, provided they do not extend more than three (3) feet.
  - 2. Yard lights and signs provided they are located three (3) feet or more from all lot lines. Lights for illuminated parking or loading areas or yards for safety and security purposes may be installed where necessary provided that glare is not visible from a public right-of-way or adjacent residential property.
  - 3. Off-street parking spaces except as hereinafter regulated.
  - 4. Fencing not exceeding eight (8) feet, or screening materials as hereinafter regulated.
  - 5. The planting of new trees, provided they are not less than eight (8) feet from any property line or within twenty (20) feet of a line projected on the ground directly beneath overhead utility lines.
  - 6. Recreational equipment, laundry drying equipment, picnic tables, open arbors and

trellises, balconies, breezeways, porches, detached outdoor living rooms and decks, and outdoor eating facilities are allowed, provided these are not less than ten (10) feet from any lot line.

**Subd. 3.**

Existing Substandard Lots of Record. The following exceptions shall be made for lot area and yard requirements for existing substandard lots of record.

- A. Lot Area and Yard Requirement Exceptions. A lot of record existing upon the effective date of this Ordinance which does not meet the area or width requirements of this Ordinance is considered a buildable lot provided that the following conditions are met:
1. The combining of adjacent lots of common ownership to meet the requirements of this Ordinance is not possible.
  2. Yards shall meet the yard requirements of this Ordinance to the extent possible, provided they are within at least sixty (60) percent of each yard requirement.
  3. The lot complies with sewer system requirements under State rules and County ordinance.

SECTION 13.

GENERAL PROVISIONS

**Subd. 1.**

Purpose. The purpose of this Section is to establish general development and performance standards to assure compatible development and land uses; to prevent blight and deterioration; and to enhance the health, safety, and general welfare of the Town. Acts or omissions which cause or result in a violation of the following standards constitute a public nuisance and are prohibited.

**Subd. 2.**

Home-based Commercial Enterprises. All home-based commercial enterprises shall conform to the following standards:

- A. The conduct of the enterprise does not require alterations to the exterior of the residence which substantially alter the appearance of the dwelling as a residence.
- B. Only those persons residing in the home and up to six (6) other persons at any given time, as allowed by a Conditional Use Permit, may be employed in the enterprise.
- C. On-site signage consists of no more than one (1) single or double-faced sign with a maximum area of sixteen (16) square feet per side.
- D. The activities, equipment, and materials involved in the enterprise shall be conducted and contained within the home or accessory structure to the principal use, except in those cases when such activities, equipment, and materials are being utilized at the present time or in the immediate future, or are not visible from a public road or adjacent residences.
- E. The enterprise shall not generate sewage or waste of a nature or type that cannot be treated by a standard onsite sewage system or generate hazardous wastes without an approved plan for off-site disposal.

**Subd. 3.**

Signs on Commercial, Industrial Sites. Signage shall consist of no more than one (1) single or double-faced sign with a maximum area of one hundred twenty-eight (128) square feet per side.

**Subd. 4.**

Vision Clearance at Corners, Crossings, and Access Points. Notwithstanding any part of this ordinance or any permit or variance granted, no structure, vehicle, vegetation, fence, sign, building, or any obstacle or any portion thereof shall be placed or retained in such a manner to constitute a traffic hazard or obstruct the vision clearance of corners, crossings, or access points.

**Subd. 5.**

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. This alteration includes the construction or any change to water courses; excavation of lake or stream bottoms for removal of muck, silt, or weeds; or filling in the lake or stream bed.

**Subd. 6.**

Drainage Requirements. No land shall be developed or altered that results in surface water run-off causing unreasonable flooding, erosion, or deposition of minerals on adjacent properties or waterbodies. Such run-off shall be properly channeled into a storm drain, natural water course or drainageway, ponding area, or other public facility.

**Subd. 7.**

Off-Road Parking and Loading. All applications for a land use permit should include off-road parking and loading areas adequate to serve the proposed development.

**Subd. 8.**

Storage and Disposal of Items, Materials, Junk, and Other Waste. The following standards shall apply to storing, handling, and disposal of any items, materials, junk, or other wastes:

- A. No use shall be so operated that the storage and 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 so as to endanger the public health, safety, comfort, or welfare or to cause injury or damage to property or business.
- B. Materials allowed to be kept within the Town shall be stored in such a way as to maintain a path of at least six (6) feet wide between rows and a perimeter path of at least ten (10) feet wide to allow for emergency vehicle access.
- C. All abandoned structures are to be boarded up or torn down within sixty (60) days of abandonment.
- D. The pollution of any well, stream, lake, or body of water by sewage, industrial waste, or other substances is prohibited.
- E. All carcasses of animals shall be properly disposed of within forty-eight (48) hours after death.
- F. 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, and 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.

- G. The property owner or caretaker of any property shall not allow more than four (4) unlicensed, partially dismantled, inoperative, wrecked, or junked motor vehicles on the property unenclosed. Additional vehicles of this type are allowed if in a fully enclosed accessory building with four walls, a roof, and a door.
- H. The property owner or caretaker of any property shall not allow more than four (4) unlicensed recreational vehicles, travel trailers, campers, boats, fish houses, and/or other recreational structures or vehicles requiring licensure for use on the property unenclosed. Additional structures or vehicles of this type are allowed if in a fully enclosed accessory building with four walls, a roof, and a door.
- I. 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 result in the depreciation of the value of adjacent property.

These land use practices and existing conditions shall not be considered legal nonconforming uses and are therefore not "grandfathered" in. Any existing conditions described in this subdivision which are not in compliance with this ordinance shall conform to these provisions within six (6) months of the date that this ordinance becomes effective.

**Subd. 9.**

Nuisances. Any visual appearance, noise, odors, heat, dust, vibration, smoke, air pollution, glare, electrical interferences, or other such objectionable influences, or the storage of refuse or disposal of wastes determined 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 depressing influence upon property values in the area, shall be prohibited. Agricultural operations within the scope of the protections contained in Minnesota Statutes Section 561.19 shall not be considered a nuisance.

**Subd. 10.**

Administrative Standards. Whenever in the course of administration and enforcement of this Ordinance it is necessary or desirable to make any administrative decision, unless other standards are provided within this Ordinance, the decisions shall be made so that the result will be consistent with the intent and purpose of the Ordinance as described in Section 1, Subd. 2 of this Ordinance.

**Subd. 11.**

Existing Structures and Uses. An existing structure or use lawfully built or established prior to the effective date of a provision contained in this Ordinance or a prior ordinance which now prohibits the structure or use as it exists shall be allowed to continue subject to the limitations imposed herein on nonconforming structures and uses.

**Subd. 12.**

Review by Planning Commission. The Zoning Administrator may bring any deviation from these

performance standards to the attention of the Planning Commission. The Planning Commission may investigate the matter and determine if the use can be considered as complying with these standards, provided the owner agrees to comply with conditions set out by the Planning Commission as deemed necessary to ensure compliance with the performance standards and intent of this Ordinance.

**SECTION 14.**

**NONCONFORMING STRUCTURES AND USES**

**Subd. 1.**

Purpose. It is the purpose of this Section to provide for the regulation of nonconforming structures and uses and to specify those requirements, circumstances, and conditions under which nonconforming structures and uses will be operated and maintained. This Ordinance establishes separate 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 structures and uses not be permitted to continue without restriction. It is also the intent of this Section that all nonconforming uses eventually be brought into conformity with this Ordinance.

**Subd. 2.**

Any structure or use lawfully existing upon the effective date of this Ordinance shall not be enlarged unless the enlargement brings the structure or use into full compliance with this Ordinance.

**Subd. 3.**

No nonconforming structure or use shall be moved to another lot or to any other part of the parcel or lot upon which the same was constructed or was conducted at the time of this Ordinance adoption, unless such movement shall bring the nonconformance into compliance with the requirements of this Ordinance.

**Subd. 4.**

When any lawful nonconforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.

**Subd. 5.**

A lawful nonconforming use of a structure or parcel of land may be changed to lessen the nonconformity of use. Once a nonconforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the nonconformity.

**Subd. 6.**

If at any time a nonconforming use of a structure or land shall be destroyed to the extent of more than fifty (50) percent of its fair market value, said value to be determined by the County Assessor's records, then without further action by the Board the structure and the land on which the structure was located or maintained shall, within one-hundred-eighty (180) days, be subject to all the regulations specified by these zoning regulations for the district in which the land and structures are located. If a land use permit is applied for within one-hundred-eighty (180) days of its destruction, the structure may be rebuilt on existing foundations provided that there is no increase in the degree of nonconformance. Any structure which is damaged to an extent of less than fifty (50) percent of its value may be restored to its former extent.

**Subd. 7.**

Whenever a lawful nonconforming use of a structure or land is discontinued for a period of twelve (12) months, any future use of said structure or land shall be made to conform with the provisions of this Ordinance.

**Subd. 8.**

Normal maintenance of a building or other lawful nonconforming use is permitted, including necessary non-structural repairs and incidental alterations which do not physically extend or intensify the nonconforming use.

**Subd. 9.**

Alterations may be made to lawful nonconforming dwellings when they will bring the dwelling into compliance with all Township, County, and State regulations.

**Subd. 10.**

Lots of record in the office of the County Recorder as of the date shoreland regulations were adopted for the Township 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:

- A. 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:
  - 1. All structure and sewer system setback distance requirements can be met.
  - 2. A Type 1 sewage treatment system consistent with Minnesota Rules, Chapter 7080, can be installed or the lot is connected to a public sewer.
  - 3. The impervious surface coverage does not exceed twenty-five (25) percent of the lot.
  
- B. 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:
  - 1. The lot must be at least sixty-six (66) percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, Chapter 6120.
  - 2. 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.
  - 3. Impervious surface coverage must not exceed twenty-five (25) percent of each lot.
  - 4. Development of the lot must be consistent with the Township's Comprehensive Plan.
  
- C. A lot subject to paragraph B. but not meeting the requirements of paragraph B. must be combined with one or more contiguous lots so that they equal one or more conforming lots as possible.

- D. Notwithstanding paragraph B., 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 Section 115.55 and Minnesota Rules, Chapter 7080, or connected to a public sewer.
  
- E. In evaluating all variances, zoning and building permit applications, or conditional use requests, the Township 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.
  
- F. 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 15.

ADMINISTRATION AND ENFORCEMENT

**Subd. 1.**

Administrating Officer. This Ordinance shall be administered and enforced by the Zoning Administrator who shall be appointed by the Town Board and who serves at the pleasure of the Town Board.

**Subd. 2.**

Duties of the Zoning Administrator. The Zoning Administrator shall administer and enforce the provisions of this ordinance, including performance of the following duties:

- A. Determine that all land use permit applications comply with the terms of this Ordinance.
- B. Maintain permanent and current records of this Ordinance, including but not limited to all maps, amendments, conditional uses, interim uses, variances, appeals, and applications thereof.
- C. Receive, file, and forward all applications for appeal, variances, conditional uses, interim uses, amendments, and other matters to the designated official bodies.
- D. Institute in the name of the Town any appropriate actions or proceedings against a violator as allowed by law.
- E. Provide monthly reports to the Town Board and the Planning Commission.
- F. Provide required notice for public hearings and track compliance with the 60-day rule.
- G. Respond to inquiries concerning this Ordinance, provide copies as necessary, and document all such requests.
- H. Perform such other duties as assigned by the Town Board.

**Subd. 3.**

Delegation of Authority to Zoning Administrator. The Town Board hereby delegates to the Zoning Administrator the authority to perform the duties assigned to that position under this Ordinance, including, but not limited to, the authority to determine if applications are complete, what additional information is needed in order to complete the application, whether to extend the Town's period in which to consider an application under the 60-day rule, whether to grant a requested extension of the 60-day rule, and the authority reasonably necessary to perform the other duties assigned by the Town Board.

**Subd. 4.**

Planning Commission. The Town Board has established the Pomroy Township Planning Commission (“Planning Commission”) which is hereby reaffirmed by the adoption of this Ordinance.

- A. Duties. The Planning Commission shall have the powers and duties provided by Minnesota Statutes Chapter 462 and as follows:
  - 1. Conduct the public hearings required or provided for under this Ordinance.
  - 2. Develop Findings of Fact and make recommendations to the Town Board on matters coming before it for consideration.
  - 3. Periodically review and make recommendations regarding proposed amendments to this Ordinance.
  - 4. Perform such other duties as may be provided by law, this Ordinance, or as directed by the Town Board.

The Planning Commission does not have the authority to hire professionals, contract, or to otherwise bind the Township to an obligation.

- B. Composition. The Planning Commission shall consist of three (3) voting members. A majority of members constitutes a quorum to conduct the Planning Commission’s business. Each Planning Commission member, including the Chair and Vice-Chair, shall have one vote on all matters acted upon by the Planning Commission. A member must be present at a meeting to vote.
- C. Appointment and Vacancies. The Town Board shall appoint the Planning Commission members. Vacancies occurring on the Planning Commission shall be filled by Town Board appointment for the remainder of the term of the position.
- D. Term. Planning Commission members serve at the pleasure of the Town Board and are appointed for a term of three (3) years. Members serve until a successor is appointed and qualifies. The terms of the offices shall be staggered so that the term of one member shall expire in each year.
- E. Officers and Duties. The Planning Commission shall appoint from among its members a Chair, Vice-Chair, and a Secretary. The Town Board may have the Town Clerk serve as the Secretary, in which case the Secretary would not have a vote on the Planning Commission. The Chair shall be the presiding officer for Planning Commission meetings and shall perform such other duties as designated by this Ordinance or assigned by the Town Board. The Vice-Chair shall conduct the duties of the Chair in the Chair’s absence. The Secretary shall provide notices, keep records of the Planning Commission’s

proceedings, and countersign the Chair's signature on Planning Commission documents. The Zoning Administrator may assist the Chair and the Planning Commission in the performance of their duties.

- F. Compensation. The Town Board shall determine if members will be compensated for their service on the Planning Commission, the amount of compensation if provided, and the policy for reimbursing necessary expenses incurred in carrying out the Planning Commission's duties.
- G. Rules and Procedures. The Planning Commission may adopt rules and procedures related to how it conducts its meetings and hearings.
- H. Meetings. The Planning Commission shall hold regular meetings as needed. The Chair or Vice-Chair, together with the consent of at least one other Planning Commission member and with permission of the Town Board, may call special meetings as needed to conduct the Planning Commission's business. The Planning Commission shall provide a public record of its proceedings which shall include the minutes of its meetings, its findings, and the action taken on each matter heard by it, including the final order.
- I. Conflict of Interest. Any Planning Commission member who has a conflict of interest on any issue before the Planning Commission shall not be allowed to participate as a commission member on that issue.

**Subd. 5.**

Board of Appeals and Adjustments. The Board of Supervisors shall act as the Board of Appeals and Adjustments and shall have the following powers:

- A. Hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the Zoning Ordinance.
- B. Hear requests for variances from the literal provisions of this Ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration.
- C. Hear appeals from denials of a land use, zoning permit, or building approval for an area identified on an official map adopted by the town as needed for road or other public purposes.
- D. Such other duties as the Town Board may direct.

**SECTION 16.**

**FEES**

**Subd. 1.**

Application Fee. An application fee shall be paid by all applicants in accordance with a fee schedule adopted by the Town Board. The purpose of the fee is to defray costs of processing applications for land use permits, conditional uses, interim uses, amendments, variances, or appeals. Application fees are payable at the time applications are filed with the Zoning Administrator and are not refundable, regardless of whether the application is approved, denied, or withdrawn.

**Subd. 2.**

Administrative Fee. In addition to the required application fee, an applicant may also be required to pay and sign an agreement on a form provided by the Town agreeing to reimburse the Town for all of its costs, including staff and consulting time which includes engineering, planning, legal, administrative and inspection expenses and material costs incurred by the Town in processing the application.

Payment of the application fee and the administrative fee deposit and execution of the reimbursement agreement may be required prior to an application being considered filed, complete, and subject to processing.

The Town will deduct its expenses from the administrative fee deposit. If the Zoning Administrator determines that the administrative fee 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 anticipated costs. 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.

Upon the termination of the application by an approval, denial, withdrawal, or any other means, all costs incurred by the Town shall be immediately payable by the applicant. Any deposit in excess of the Town's costs 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 and costs are paid in full. In the event that payment of costs 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; filing a lien upon the subject property or other property of the applicant pursuant to Minnesota Statutes Section 514.67; or taking such other action as may be deemed appropriate under the law

to obtain full reimbursement for the Town for all costs it incurs related to the application.

SECTION 17.

VARIANCES AND APPEALS

**Subd. 1.**

Procedures for Requesting a Variance.

- A. Requests for variances shall be filed with the Zoning Administrator on the Town's official application form. The application shall be accompanied by the application fee and copies of detailed written or graphic materials fully explaining the proposed variance, and cite the specific requirements under this Ordinance from which a variance is being sought. The Zoning Administrator shall refer the application, along with all information, to the Board of Appeals and Adjustments for consideration.

**Subd. 2.**

Procedures for Considering Variance Requests.

- A. The Zoning Administrator, after consultation with and on behalf of the Board of Appeals and Adjustments, shall set a date for a public hearing. A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the Town at least ten (10) days prior to the date of the hearing. A similar notice shall also be mailed not less than ten (10) days prior to the hearing to all property owners of record according to the county assessment records, within five hundred (500) feet of the property to which the request relates. A copy of this notice shall also be sent to anyone with a current request to receive such notices. 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 or Town Clerk and made part of the 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.
- B. The Board of Appeals and Adjustments may grant a variance if it determines the strict enforcement of this Ordinance would cause an undue hardship because of circumstances unique to the individual property under consideration. In reaching its determination, the Board of Appeals and Adjustments shall make findings of fact as to whether the request meets all of the following criteria:
  - 1. The proposed action will be in keeping with the spirit and intent of the Comprehensive Plan and this Ordinance.
  - 2. The property in question cannot be put to a reasonable use if used under conditions allowed by this Ordinance.
  - 3. The plight of the property owner is due to circumstances unique to the property and not created by the property owner.

4. The variance, if granted, will not alter the essential character of the locality or adversely impact the environment.
  5. The variance requested is the minimum variance which would alleviate the hardship.
  6. The complained of hardship is not based solely on economic considerations.
- C. Such findings shall be entered into and made a part of the written record of the Board of Appeals and Adjustments meeting.
- D. Access to direct sunlight in cases of solar energy systems shall constitute grounds for granting a variance.
- E. If the variance request meets all of the conditions of items 1 through 6 above, the variance may be granted.
- F. The Board of Appeals and Adjustments may not permit as a variance any use which is not permitted within the zone in which the property is located. Such use variances are prohibited by law.
- G. In considering a request for a variance, the Board of Appeals and Adjustments shall have the authority to require, as a condition of the variance, a performance bond or other securities when it is deemed necessary and appropriate.
- H. Approval of a variance shall require passage by two-thirds (2/3) vote of the Board of Appeals and Adjustments. The Zoning Administrator or Town Clerk shall notify the applicant of the action. The decisions of the Board of Appeals and Adjustments shall be final subject to judicial review.
- I. A certified copy of every variance shall be filed with the County Recorder.

**Subd. 3.**

Lapse of Approved Variance.

- A. Whenever within one (1) year after granting a variance the work as permitted by the variance has not been substantially started, the variance shall become null and void.
- B. The property owner may request an extension of time in which to complete the work. The extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the first year from the date the variance was granted. The request shall state facts showing a good faith attempt to complete the work permitted in the variance or appeal. There shall be no charge for the filing of the request.

- C. The request shall be presented to the Board of Appeals and Adjustments at their next meeting for a decision.

**Subd. 4.**

Procedures for Filing an Appeal.

- A. Appeals shall be filed with the Town Clerk within fourteen (14) days of when the decision or order being appealed was communicated to the appellant. The appeal shall be in writing and shall include copies of detailed written or graphic materials fully explaining the decision being appealed and the reasons for the appeal. The Town Clerk shall refer the appeal, along with all information, to the Board of Appeals and Adjustments for consideration.
- B. The Board of Appeals and Adjustments and Town staff 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 when the information is declared necessary.

**Subd. 5.**

Procedures for Considering an Appeal.

- A. The Clerk, after consultation with and on behalf of the Board of Appeals and Adjustments, shall set a date for a public hearing. A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the Town at least ten (10) days prior to the date of the hearing. A similar notice shall also be mailed not less than ten (10) days prior to the hearing to all property owners of record according to the county assessment records, within five hundred (500) feet of the property to which the request relates. A copy of this notice shall also be sent to anyone with a current request to receive such notices. 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 Town Clerk and made part of the 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.
- B. The Board of Appeals and Adjustments shall make Findings of Fact as to whether the zoning decision should be reversed, upheld, or modified.
- C. The decision of the Board of Appeals and Adjustments on the appeal shall be in writing and shall require a two-thirds (2/3) vote. The Town Clerk shall notify the applicant of the decision, which shall be final subject to judicial review.

**SECTION 18.**

**PENALTIES AND VIOLATIONS**

**Subd. 1.**

Violations of this Ordinance shall constitute a misdemeanor and shall be punishable by up to the maximum fine or maximum period of imprisonment, or both, provided for a misdemeanor under Minnesota Statutes Section 609.03. The cost of prosecution may be added to the penalty and is recoverable by the Town as provided in Minnesota Statutes Section 366.01, Subdivision 10. Each day a violation continues shall constitute a separate violation.

**Subd. 2.**

At the discretion of the Town Board, the Town may choose to take civil action to prevent, restrain, correct, or abate violations. The violator shall be liable for the costs incurred by the Town for remediation, correction, abatement, or other action necessitated by the violation, including legal and administrative fees and costs.

**Subd. 3.**

Any person who begins construction without the necessary permits remains responsible for applying for all necessary permits and shall be required to pay double the applicable permit fees.

**SECTION 19.**

**AMENDMENTS TO THE ZONING ORDINANCE**

**Subd. 1.**

Procedure to Initiate an Amendment. An amendment to the text of this Ordinance or to the district boundaries (collectively an “amendment”) may be initiated in any of the following ways.

- A. The Town Board may initiate an amendment on its own motion. The Town Board shall forward its amendment to the Planning Commission for its consideration and recommendation. The Planning Commission shall hold a public hearing on the amendment as provided for in Subd. 2 of this section and develop and forward its recommendation regarding the amendment to the Town Board. The Town Board shall review the Planning Commission’s recommendation and may act on the amendment after making any revisions it determines are appropriate. If the Planning Commission does not provide the Town Board with its recommendation within sixty (60) days of when it was received, the Town Board may proceed to hold the required hearing on the proposed amendment and act on it without further review or input from the Planning Commission.
- B. The Planning Commission may initiate an amendment on its own motion after consulting with the Zoning Administrator. Once the Planning Commission has developed its amendment it shall forward it to the Town Board for review. The Town Board shall review the amendment and determine whether any revisions to it are appropriate and whether to authorize the Planning Commission to hold a public hearing on the amendment. If the Town Board authorizes a public hearing, it shall return the amendment to the Planning Commission with any alterations for a public hearing to be held by the Planning Commission in compliance with Subd. 2 of this section. The Planning Commission shall develop and forward its recommendation regarding the amendment to the Town Board. The Town Board shall review the Planning Commission’s recommendation and may act on the amendment after making any revisions it determines are appropriate.
- C. Any person owning real estate within the Town may petition for an amendment by submitting an application for an amendment as provided in Subd. 2 of this section.

**Subd. 2.**

Procedure for Requesting, Reviewing, and Approving or Denying an Amendment.

- A. An application for an amendment to this Ordinance shall be filed with the Zoning Administrator on the Town’s official application form. Such application from a property owner shall be accompanied by the application fee and copies of detailed written and graphic materials fully explaining the proposed change. The Zoning Administrator shall refer said application, along with all related information, to the Planning Commission for consideration.

- B. The Zoning Administrator, after consultation with Planning Commission members and on behalf of the Planning Commission, shall set a date for a public hearing. A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the Town at least ten (10) days prior to the date of the hearing. If the proposed amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall also be mailed not less than ten (10) days prior to the hearing to all property owners of record, according to the county assessment records, of property situated wholly or partly within three hundred and fifty (350) feet of the property to which the amendment relates. A copy of the notice shall also be sent to anyone with a current request to receive such notices. A copy of the notice and a list of persons and addresses to which the notice was sent shall be prepared and attested to by the Zoning Administrator or Town Clerk and made part of official record. The failure to give mailed notice or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.
- C. The Planning Commission shall consider the request and shall schedule and hold a public hearing. The applicant or its representative shall appear before the Planning Commission at the hearing in order to present the reasons for the proposed amendment and to answer questions.
- D. The Planning Commission and Zoning Administrator shall have the authority to request additional information from the applicant concerning the proposed amendment.
- E. The Planning Commission shall develop Findings of Fact and a recommendation regarding the proposed amendment that shall be forwarded to the Town Board.
- F. The Town Board shall determine whether to adopt the proposed amendment, including any modifications to the proposed amendment that the Town Board may determine are appropriate.

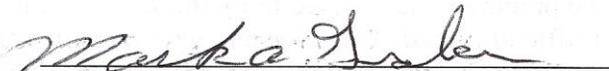
SECTION 20.

DATE OF EFFECT

**Subd. 1.**

Date of Effect. This ordinance shall become effective and enforceable on the first day following publication.

Adopted by the Pomroy Town Board on this 16<sup>th</sup> day of September, 2010.

  
Mark A. Graber, Chairperson

Attested to by:   
Diana M. Rankin, Town Clerk

APPENDIX A

ZONING DISTRICTS MAP

A-R Agricultural – Residential  
S Shorelands

