

ZONING ORDINANCE FOR THE TOWN OF SOUTH FORK, MINNESOTA

THE TOWN BOARD OF THE TOWN OF SOUTH FORK HEREBY ORDAINS: AN ORDINANCE REGULATING THE USE, SUBDIVISION AND DEVELOPMENT OF LAND AND THE LOCATION, SIZE, USE AND ARRANGEMENT OF BUILDINGS ON THOSE PARCELS OF LAND LOCATED IN THE TOWN, THIS ORDINANCE BEING ADOPTED PURSUANT TO CHAPTER 462 OF MINNESOTA STATUTES.

SECTION 1. TITLE AND APPLICATION

- Subd. 1. Title. This ordinance shall be known as the "Zoning Ordinance of the Town of South Fork, Minnesota", except herein where it shall be referred to as "this Ordinance".
- Subd. 2. Intent and Purpose. 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 standards governing the subdivision, development and use of land and structures contained and/or erected upon same. This Ordinance divides the Town into use districts and regulates the subdivision, development and use of land and the location, size, use and arrangement of buildings.

The regulations and standards herein have been adopted to promote orderly development of residential, commercial agricultural, recreational and public areas and to protect open spaces; to prevent the overcrowding of land and undue concentration of structures; to avoid unnecessary congestion upon public roads; to minimize the incompatibility of different land uses and encourage the most appropriate use of land within the Town; to protect and guide the development of rural areas; to conserve natural resources; to protect and enhance existing agricultural uses; to prevent the wasteful scattering of population; to control and obtain the most economic distribution of and demand for public utilities and services; to conserve and enhance natural and scenic areas along roads and otherwise; to provide for the administration of this Ordinance and amendments thereto; to prescribe penalties for violations of the minimum standards and regulations herein; and to define the powers and duties of the Town, its staff and appointed personnel.

- Subd. 3. Minimum Requirement. The provisions of this Ordinance shall be applied and construed to constitute minimum standards for the promotion of the public health, safety and welfare.
- Subd. 4. Relation to Other Standards. Where a condition imposed by any provision of this ordinance is either more or less restrictive than the comparable condition imposed by any other ordinance, rule or regulation of the Town, County, State or Federal government, the ordinance, rule or regulation which imposes the more restrictive condition or result shall prevail. For purposes of this section, "more restrictive" shall mean the

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 Rhonda A. Olson County Recorder
 By R. Helmer Deputy

least congestion, the least intrusion and the least intensity of any use or development permitted between those provisions which are in conflict.

The Town acknowledges and encourages the use of restrictive covenants, privately imposed, where appropriate. However, no restrictive covenant shall permit any use or development of land which does not meet the minimum requirements of this ordinance.

- Subd. 5. Conformity with Provisions. No structure shall be erected, converted, enlarged, reconstructed 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. 6. Building Site Permits. No structure or building shall be constructed, erected or otherwise placed upon any lot or parcel within the Town without first obtaining a building site permit; the issuance of a building site permit shall not be deemed the approval to use any such building or structure contrary to or inconsistent with the requirements of this Ordinance.
- Subd. 7. Conditional Uses, Variances, Amendments, Appeals. Nothing within this Ordinance shall be construed to abrogate or otherwise deny the right of a property owner to apply for a conditional use permit, variance, amendment or appeal. No application or appeal shall be attended by any presumption of approval.
- Subd. 8. Uses Not Provided for Within Zoning Districts. Whenever in any zoning district a use of land and/or buildings is neither specifically permitted nor denied, the use shall be considered prohibited. If such a use is considered prohibited, the Planning Commission, on its own initiative or upon request, may conduct a study to determine if the use is acceptable and if so, the appropriate zoning district and the conditions under which said use will be permitted, and initiate an amendment to this ordinance accordingly.
- Subd. 9. Separability. The various provisions of this Ordinance shall be deemed and construed to be separable. In the event any court of competent jurisdiction:
- a. 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. shall adjudge invalid the application of any provision of the Ordinance to a particular use, property, building or structure, such judgment shall not affect the application of said provision to any other property,

building or structure not specifically included in said judgment.

SECTION 2. DEFINITION OF TERMS

The following words and terms, as used in this Ordinance, shall be interpreted as hereafter defined.

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

Subd. 2. Affected Property Owner. A person, association or entity having a legal interest in a lot or parcel of real property sufficient to initiate any proceeding authorized by this Ordinance or to be recognized at a hearing under any such proceeding and shall include:

- a. the holders of fee title;
- b. Contract for Deed vendees (purchasers);
- c. Contract for Deed vendors (sellers) with the written consent of all vendees;
- d. Lessees and renters with the written consent of the owner(s);
- e. Named buyers under a purchase agreement provided that the purchase agreement contains a provision that it is conditioned upon the buyer first obtaining any permit or approval required by this Ordinance;
- f. Optionees provided that the option contains a provision that it is conditioned upon the optionee obtaining any permit or approval required by this Ordinance;
- g. Mortgagees following a mortgage foreclosure and the expiration of the period of redemption or otherwise with the written consent of the mortgagors and/or other owners;
- h. Personal representative(s) of an estate, a guardian, trustee, receiver or other person or entity appointed by a court having authority over the use and/or development of any affected land;

i. Person or entity named as a general power of attorney or granted specific authority as to the use and/or development of any affected land in a limited power of attorney.

The Town Board or its designed officials may request proof of such ownership or authority where deemed appropriate.

Any person or the representative of any association or entity owning or occupying any affected land shall be heard at any public hearing under such proceeding.

- Subd. 3. Agriculture Uses. Those uses commonly associated with the growing of produce on farms, including livestock raising; crop farming; fruit growing; truck gardening and a roadside stand for the retail sale of same in season; tree, plant, shrub and/or flower nurseries when no retail sales are made upon the premises.
- Subd. 4. Buildable Area. That part of a lot or parcel of sufficient elevation to accommodate the principal building, a well and an on-site sewer system and an alternative sewer site, all of which meet applicable codes, ordinances and/or regulations.
- Subd. 5. Building. Any man-made structure used, intended for or which would otherwise accommodate any use or occupancy.
- Subd. 6. Building Setback. The minimum horizontal distance prescribed in this Ordinance between a building and a specified lot line or boundary.
- Subd. 7. Conditional Use. A use which has characteristic(s) which are or the impact of which is incompatible with the permitted uses within a zoning district but which, if properly controlled or restricted such as will eliminate or minimize the incompatibilities, may be permitted with a conditional use permit.
- Subd. 8. Commercial Uses. Any enterprise, establishment, occupation or employment wherein or whereby merchandise is exhibited, traded and/or sold or any service is offered in exchange for compensation or other things of value.

Manufacturing, defined as any use which utilizes or includes the compounding, processing, packaging, treatment or assembly of products and/or materials, shall not be deemed a commercial use.

- Subd. 9. Dwelling-single family. Any detached structure or building designed and/or utilized exclusively for residential occupancy by one family including manufactured housing, whether used seasonally or year around, excluding hotels, motels

boarding houses and other buildings rented or otherwise made available to transient travellers.

- Subd. 10. Dwelling - townhouse. One building or structure designed to accommodate more than one family in independent units, each having its own separate access and amenities.
- Subd. 11. Dwelling - multiple. A structure or building designed or utilized for more than two families in independent units other than townhouses.
- Subd. 12. Essential Services. Underground or overhead utilities including gas, electric, steam, water and sewer including all appurtenances necessary or incidental thereto but excluding buildings, transmission pipelines and electric transmission lines.
- Subd. 13. Family. An individual or two or more persons related by blood or marriage or a group of not more than four unrelated persons living together in an independent, single housekeeping unit.
- Subd. 14. Farm. A single tract of land of not less than 10 acres, the principal use of which is for agricultural purposes. This definition shall not preclude a smaller tract from being classified as agricultural if otherwise qualifying under the laws of the State of Minnesota.
- Subd. 15. Fence. A man-made barrier forming a boundary to or enclosing a tract of land, or some portion thereof. Where applicable, the provisions of Chapter 344 of Minnesota Statutes shall control the location and type of fence.
- Any fence in excess of 5 feet in height shall require the prior approval of the Town Board, except those fences constructed on a farm.
- All fences shall be maintained in a neat and respectable condition so as not to be offensive to neighbors or members of the public.
- Subd. 16. Forestry. The management, including logging, of a forest, woodland or tree plantation and including related research and educational activities and the construction and maintenance of woodroads and skidroads.
- Subd. 17. Garage. An accessory building or accessory portion of the principal building which is intended for and used exclusively to shelter private passenger vehicles of a family or those families residing upon the premises.

- Subd. 18. Home Occupation. Any occupation or profession carried on by a member of the family residing on the premises, provided that any such use is clearly incidental and secondary to the principal use of the premises for dwelling purposes; that such use does not alter the character of the principal use of the dwelling except that a non-illuminated sign not exceeding 4 square feet on each of not more than two surfaces is permitted.
- Subd. 19. Lot of Record. Any platted lot or other parcel described by a metes and bounds description which is of record in the office of the County Recorder on the date this Ordinance becomes effective; or any such lot or parcel which was of record prior to the effective date of adoption of the Interim Zoning Ordinance of said town if such lot or parcel was subject to any restrictions under said Interim Zoning Ordinance; and any such lot or parcel which was the subject of and described in a purchase agreement or option which was binding upon the effective date of the adoption of this Ordinance.
- Subd. 20. Lot. A separately described parcel of land, with or without buildings, occupied or used for or intended for occupancy or any use permitted under the provisions of this Ordinance having not less than the minimum area required by this Ordinance for each use, including buildings to accommodate same, in the zoning district in which such lot is located which abuts a public road, street or highway.
- Subd. 21. Lot Area. The area of the horizontal plane bounded by the lines of a lot.
- Subd. 22. Lot Frontage. That side of a lot which abuts a public road, street or highway.
- Subd. 23. Lot Line. Any boundary line of a lot, provided that where any lot is encroached upon by a public street, road or highway, or by any private road easement which was recorded in the office of the County Recorder prior to the effective date of this Ordinance or otherwise appears binding on the lot owner for the purpose of meeting the minimum requirements of this Ordinance, the lot line shall be the right-of-way line of any such street, road, highway or private easement.
- Subd. 24. Lot Sideline. Those lines of a lot which begin at the point of intersection with a public right-of-way and then run away from said right-of-way line.
- Subd. 25. Lot Width. The shortest horizontal distance between the side lot lines. Where the side lot lines do not run parallel, (a) if the side lot lines diverge from their intersection with the public right-of-way, the minimum lot width shall be measured

one-half of the required setback distance from said right-of-way line; (b) if the side lot lines converge from their point of intersection with said right-of-way line, the minimum lot width shall be measured at the required setback line of that lot.

- Subd. 26. Nonconforming Structure or Use. Any structure or use lawfully established prior to the effective date of this Ordinance but which is not permitted under the provisions of this Ordinance.
- Subd. 27. Permitted Use. A use which is expressly permitted within a district established by this Ordinance, provided that such use conforms with all requirements, regulations and performance standards (if any) applicable thereto.
- Subd. 28. Principal Use. The primary or main use of land and/or buildings upon same. Principal uses shall be generally categorized as agricultural, residential and commercial. If a use is mixed or might qualify under more than one of the general categories, the Planning Commission shall determine which category is applicable.
- Subd. 29. Public Waters. Any waters of the State which serve a beneficial public purpose.
- Subd. 30. Salvage Yard. Any use which involves or includes the storing, keeping, salvaging and/or holding for sale tires and all or parts of the following: unlicensed and/or inoperable motor vehicles, their components and tires; used farm machinery and equipment unless used as part of a farm operation or unless held for sale under a permit authorized by this ordinance; scrap iron and scrap metals; and any other item or items which no longer customarily serve the purpose for which they were designed.
- Subd. 31. Setback. The minimum horizontal distance required between any variation of two or more points, boundaries, lines, perimeters or buildings.
- Subd. 32. 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 extend of a flood plain designated by ordinance on such a river or stream, whichever is greater. For any plat that is approved containing any single lots which extend more than 300 feet from a river or stream, the shoreland district shall be enlarged so as to include each of said lots in their entirety. *he has not platteD property*
- Subd. 33. Substandard Lot. Any lot of record which does not meet the minimum lot area, frontage, setbacks or other dimensional

standards of this ordinance.

- Subd. 34. 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. 35. Variance. Written approval waiving the minimum requirements of this Ordinance in instances where their strict enforcement would cause undue hardship because of physical circumstances unique to the parcel of property under consideration.
- Subd. 36. Yard. That open space or those open spaces on a lot which does not contain any buildings.
- Subd. 37. Zoning Map. That map or those maps incorporated into and being a part of this Ordinance designating zoning districts as amended from time to time.
- Subd. 38. Public Road. Those roads under the direct authority of the town, the county, the state or federal government.

SECTION 3. ZONING DISTRICT PROVISIONS

- Subd. 1. Establishment of Districts. The following zoning districts are hereby established:

A-0	Agricultural, open space district
S	Shorelands district

- Subd. 2. Map. The location and boundaries of the districts established by this Ordinance are set forth on the zoning map attached hereto, the original of which shall be on file with the Town Clerk.

The zoning map may change from time to time; thus, the original map attached hereto may not show subsequent amendments. Inquiry should be made of the Town Clerk to determine if any amendments to the zoning map have been adopted and as to their effect.

Said map and all notations, references and other information shown thereon as hereafter amended shall have the same force and effect as if fully set forth herein.

- Subd. 3. Detachment. In the event of changes in the town boundaries, the boundaries of the internal zoning districts shall be extended or retracted accordingly.

Subd. 4. Zoning District Boundaries.

- a. Boundaries indicated as approximately following the center lines of streets, highways, alleys or railroad lines shall be construed to follow such center lines.
- b. Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.
- c. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, lakes or other bodies of water shall be construed to follow such center lines.
- d. Boundaries indicated as approximately following the town boundaries shall be construed as following such boundaries.
- e. Where a district boundary line divides a lot which was in single or common ownership at the time of passage of this Ordinance and if either portion of the lot is undevelopable under the provisions of the district within which it is located without obtaining a variance, the Planning Commission shall determine the location of the district boundary.
- f. The exact location of all district boundaries shall be interpreted by the Planning Commission.

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 of land except as hereinafter provided.

- a. No building, structure or land shall hereafter be used or occupied and no building structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of regulations herein specified for the district in which it is located.
- b. No building or other structure shall hereafter be erected or altered; to exceed the height or bulk, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, to have narrower or smaller rear yards, front yard, side yards or other open spaces, than herein required; or in any other manner contrary to the provision of this Ordinance.
- c. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall

meet at least the minimum requirements established by this Ordinance.

SECTION 4. A-O. AGRICULTURAL, OPEN SPACE DISTRICT

- Subd. 1. Agricultural zoning district. This district is intended to allow suitable areas of the township to be retained in agricultural uses; protect and preserve open spaces; prevent scattered non-farm development and to secure economy in governmental and private expenditures for public services, utilities, schools and residents of the township.
- Subd. 2. District boundaries. All land within the township is included in the agricultural zoning district, subject to those provisions applicable to the lakeshore management district contained in Section V herein.
- Subd. 3. Permitted uses. The following uses shall be permitted within the agricultural district:
- a. Agricultural uses including farm buildings and one farm dwelling; additional dwellings for persons and their families who are employed upon the farm; accessory buildings.
 - b. Farm production including:
 - i. raising livestock, livestock products and other domesticated animals kept for use on the farm or raised for sale for profit;
 - ii. domestically raised fowl;
 - iii. field and specialty crops;
 - iv. fruit growing;
 - v. nursery stock and tree farms;
 - vi. garden vegetables;
 - vii. bee keeping
 - viii. fur farms
 - c. Feed lots as defined and controlled under Minnesota Statutes.
 - d. Single family dwellings subject to the following regulations:

- i. not more than two single family units per quarter-quarter.
- ii. each lot upon which such a dwelling is erected shall be a minimum of two and ½ (2 ½) acres, one (1) acre of which shall be of such an elevation as to be buildable (not less than 3 feet above highest known water table);
- iii. each lot has frontage of not less than 200 feet on an existing public road;
- iv. no lot may be located upon or within a flood plain.
- v. each lot shall be of sufficient size and shall contain soils adequate to support an on-site sewage system and an alternative sewer site, and shall contain a well complying with the regulations of the State of Minnesota.
- vi. each single family dwelling shall have a minimum width of 14 feet and shall have a minimum ground floor area of not less than 960 square feet; for split level and similar construction, those areas devoted to and improved for habitation, excluding unimproved basements shall be included in determining the minimum area of square feet.

Manufactured homes need to have either a floating slab, anchored down, frost footings with tie downs and proper skirting (vinyl or metal). Manufactured homes cannot be over ten years in age.

Subd. 4. Setbacks

- a. Front yard – not less than 50 feet from the right-of-way of a town road; not less than 75 feet from the right-of-way of a county road or state highway
- b. Side yard – not less than 15 feet from the lot line
- c. Rear yard – not less than 30 feet from the rear lot line

Subd. 5. Conditional Uses

The following uses may be allowed in the agricultural district, subject to the provisions for issuing a conditional use permit:

- a. Commercial outdoor recreation areas
- b. Organized group camps
- c. Governmental administration and service buildings
- d. Home occupations

- e. A mobile or manufactured home may be placed and used as a temporary dwelling upon a farm, if, and for so long as said temporary dwelling meets the following conditions.
- i. The temporary dwelling is to be occupied by the owner of the farm, a child of the owner, or an employee of the owner, where said child or employee devotes all of his/her labor and skill to the farming operation of the owner. This limitation shall apply where the owner is not gainfully employed, except in the farming operation. This limitation shall not prohibit the spouse of the child, or employee from being gainfully employed outside of the farming operation.
 - ii. The temporary dwelling is served by an approved well and sewer system, has floating slab and is properly anchored with skirting.
 - iii. The conditional use permit issued will be valid until January 1st of the next even-numbered calendar year following its issuance, and upon application submitted prior to that date, assuming continuing compliance, will be renewable for successive two (2) year periods, each terminating on January 1st of the next following even-numbered calendar year.
 - iv. the temporary dwelling must be maintained in a habitable condition, and shall otherwise appear neat and respectable.
 - v. The temporary dwelling shall be removed from the premises within 30-days following the date it ceases to qualify under the stated conditions.
 - vi. The owner(s), and all persons acquiring an interest in the farm, if applicable, shall sign the conditional use permit, which shall be in a form recordable in the office of the county recorder, agreeing to the conditions, and shall also agree to timely (not more than 30-days after verification and demand) reimburse the town for any and all costs, expenses, and attorney's fees incurred by the town, incurred in enforcing any term or condition of said permit.
 - vii. Before issuance of the permit, the owner shall deposit with the town a bond in the sum of \$500 or the equivalent thereof, assuring compliance with the terms and conditions of said permit, to be forfeited to the town for any failure thereof. Said bond shall be in addition to, and not in lieu of any other obligation of the owner required under said permit.
- f. Salvage yards shall not be permitted in the town, neither by conditional use permit nor otherwise.

- g. Extraction of minerals including gravel pits. The following pre-existing gravel pits shall be permitted to continue upon those parts of the following described parcels as owned as of the date of this ordinance:
- i. Ralph Wahlstrom; pt. Of SE $\frac{1}{4}$ of Section 25, Twp. 38, Range 25; gravel extraction, crushing and asphalt production
 - ii. Carl Hass; W $\frac{1}{2}$ of W $\frac{1}{2}$ of SE $\frac{1}{4}$. Section 25, Twp. 38, Range 25; gravel extraction and crushing and asphalt production.
 - iii. Dennis Lamprect; pt. of SW $\frac{1}{4}$ of Section 5 lying northerly of T.H. 23, Section 5, Twp. 38, Range 25; gravel extraction, crushing and asphalt production.

Gravel pits existing of the date of this ordinance and the legal description of their location are contained on Ex. A attached to this ordinance, each citing uses previously made. Said gravel pits and said uses may continue upon the land included in the legal description for each without obtaining a conditional use permit.

Minimum standards: All gravel pits, whether they are in operation at the time of this ordinance adoption or are proposed, including regularly established non-conforming pits, shall follow the Minimum Standards set forth in this section. A gravel pit shall include the pit area, stockpiles, haul roads, entrance roads, scales, crusher, and all related facilities. If a pit operator of an existing gravel pit cannot meet these standards due to practical difficulty, such as extent of existing excavation or topographic conditions, the operator shall demonstrate the nature of the difficulty to the planning director and the decision of the Planning Director may be appealed to the planning Commission for a ruling. All new pits that cannot meet the minimum standards may have the standards altered through a conditional use permit.

A. The Minimum Standards are as follows:

1. No gravel pit shall be within the setback for principal structures from the shore of any lake or river.
2. A no disturbance 50 feet buffer area shall be established between the property line containing a residence or public/semi-public building. In order to qualify as a parcel with a residence or public/semi-public use, such a parcel must have the principal structure within 300 feet of the property line adjacent to the proposed pit. The 50 foot buffer area may be altered through an agreement with the adjacent property owner.

Proof of the agreement shall be filed with the Zoning Administrator.

3. The 35-foot buffer shall apply to all highways and the buffer area shall begin at the edge of the highway right-of-way.
4. All Minnesota Pollution Control Agency noise and air quality standards shall apply.
5. No waste classified as hazardous by the Minnesota Pollution Control Agency shall be disposed of on the site.
6. A concurrent reclamation plan shall be submitted and approved by the Planning Commission and the Town Board.
7. All utility line easements shall be observed and any encroachment into the utility right-of-way shall only be permitted with the written approval of the utility.
8. All road weight limits and other road restrictions placed in effect by the local road authority shall be observed.

B. The application form

1. All new gravel pits shall supply the following information:
 - a. Detailed map showing pit location.
 - b. Surrounding land area and building location, including water bodies, etc.
 - c. Activity plan of pit, such as gravel crushing, asphalt production, etc.
 - d. Route trucks will take to remove product from pit.

C. Permit Revocation:

1. Failure to follow minimum standards described in Section A could result in revocation of permit.

SECTION 5. LAKESHORE MANAGEMENT DISTRICT

- Subd. 1. Scope and application. The lakeshore management district, as defined, described and located in the Kanabec County Lakeshore management Ordinance is an overlying district. All uses and development within said lakeshore management district shall, where required, be approved by the Kanabec County Board in accordance with said ordinance, where the requirements of said lakeshore management ordinance are more restrict than those contained herein.

SECTION 6. SITE PERMIT

- Subd. 1. Application. An application for a site permit shall be submitted to the town zoning administrator upon the form supplied by the town. Each application shall provide:
- a. The name (s), address and phone number of the owner.

- b. The legal description of the parcel upon which the building (s) will be located.
 - c. A copy of any survey of the parcel or a drawing, to scale, either of which shall show the direction of North, the boundaries of the parcel, the location and dimension of any existing or proposed well or sewer system, and all adjacent roads and accesses to same. The owner shall sign and date this survey or drawing.
 - d. A sewer permit.
 - e. Such other information as is deemed appropriate by the zoning administrator.
- Subd. 3. Issuance of site permit.
 A. This permit will be in effect for a period of twelve months from the date issued. Exterior of building needs to be completed within that period.
- Subd. 4. Issuance of driveway permits.
 A. To build a new driveway on township roads, the driveway must conform to county standards.

SECTION 7. CONDITIONAL USES AND VARIANCES

- Subd. 1. Conditional uses and variances – general provisions. The Town Board shall serve and act as the Planning Commission and the Board of Appeals and Adjustments and shall have authority to:
- a. hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the zoning administrator;
 - b. hear and grant requests for conditional use permits and for variances.

Conditional use permits may be issued consistent with the provisions of this ordinance.

A variance may be issued only in those circumstances where the strict enforcement of this ordinance would cause undue hardship because of circumstances unique to the parcel of land under consideration, which has not been created by the owner. Economic hardship, in and of itself, shall not constitute undue hardship.

Subd. 2. Procedure. The following procedure shall apply to conditional use permits and variances.

- a. Application. Applications for conditional use permits or variances shall be filed with the zoning administrator on an official application form. Such application shall be accompanied by a fee of \$52.00 to offset the costs of processing same. This fee shall not be refundable. If special meeting is required, applicant shall pay all costs of holding special meeting. This fee will accompany application and shall not be refundable.

Each application shall be accompanied by copies of detailed written and graphic materials fully explaining the proposed request.

- b. Hearing. The zoning administrator shall set a date for a public hearing. Notice of such hearing shall be published in the official newspaper of the town not less than 10 days prior to the date of the hearing.

At the hearing, the Town Board shall have authority to request additional information from the applicant as is relevant to the applicant's request.

Within 35 days of the date of said hearing, the Board shall make written Findings and a Decision, a copy of the same to be mailed to the applicant.

- c. Findings of Fact. In considering requests for conditional use permits or variances, the Board shall make its Findings of Fact based upon but not limited to the following factors:

- i. Geographical area involved
- ii. Character of the surrounding area
- iii. Whether the proposal will tend to or actually depreciate the surrounding area.
- iv. Whether the proposal will place an undue financial burden on the town.
- v. Whether the proposal will increase the danger of fire or endanger public property.
- vi. Whether the proposal will unreasonably increase the congestion of traffic in a public right-of-way.

- viii. Elements of the proposal that are incompatible with the surrounding area and whether such elements may be alleviated by the imposition of conditions
- c. Conditions for granting variances. In determining whether to grant a variance, the Board shall consider:
 - i. Variances may not be granted for uses of property but only where the size, configuration and/or topography of the parcel render compliance with the physical requirements (lot size, setbacks, etc.) impossible
 - ii. The Board may impose conditions in granting a variance to assure maximum compliance with this ordinance given the conditions and circumstances of a parcel.

SECTION 8. 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.

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

- a. Determine that all building permits 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, variances, appeals and applications thereof.
- c. Receive, file and forward all applications for appeal, variances, conditional use, amendments and other matters to the designated official bodies.
- d. Institute in the name of the town any appropriate actions or proceedings against a violater as provided by law.

Subd. 3. Site Permit Required.

- a. Scope-From and after the effective date of this Ordinance, it shall be unlawful to proceed with the construction, placement or enlargement of any building or structure without first obtaining a site permit.
- b. Application- Request for a site permit shall be filed with the Zoning Administrator on an official application form. Each application for a permit shall be accompanied by a site and

floor plan drawn showing the dimensions of the lot to be built upon, the size and location of all principal and accessory buildings and parking areas and such additional information deemed necessary for the proper review and enforcement of this Ordinance and any other applicable building codes.

- c. Issuance of Permit – The Zoning Administrator shall issue the site permit only when the plans comply with this Ordinance and other applicable town ordinances.

Subd. 4 Fees.

- a. To defray administrative costs of processing requests for site permits, conditional uses, amendments, variances or appeals, a base fee per application shall be paid by all applicants in accordance with a fee schedule adopted by resolution by the Town Board.
- b. In order to defray any additional cost of processing applications (site permit, amendment, conditional use, variance, appeal) for developments, all applicants shall pay the total cost of staff and/or consulting time spent exclusively in producing materials for the applicant's request, and all materials for said request.

1. "Materials" shall include but not be limited to maps, graphs, charts, drawings, etc., and all printing or reproduction of same.
2. "Staff and/or consulting time" shall include any time spent in either researching for or actual production of materials.
3. The hourly rate for "staff and/or consulting time" shall be established and made available to the applicant by the Zoning Administrator prior to production of any materials and the applicant shall be given a reasonable estimate of project time and/or material cost.
4. Fees shall be payable at the time applications are filed with the Zoning Administrator and are not refundable unless application is withdrawn prior to referral to the Planning Commission. A deposit to cover staff or consulting time and special materials will be established and required by the Zoning Administration at the time.

SECTION 9. ENVIRONMENTAL REVIEW PROGRAM

Subd. 1. Purpose. The purpose of the Environmental Review Program Section is to provide for the preparation and review of Environmental Assessment Worksheets (EAW), Environmental

Impact Statements (EIS) and other environmental documents required under Minnesota Statutes @116D.01 (1974) as amended, to implement the Environmental Review Program in accordance with 6MCAR 3.021 to 3.047.

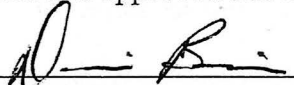
SECTION 10. PENALTIES AND VIOLATIONS

Subd. 1. Any person who violates any provision of this Ordinance shall upon conviction thereof be fined not more than \$700 and/or imprisoned for not more than 90 days for each offense. The defendant may be assessed the costs of prosecution if convicted. Each day that the violation is permitted to exist constitutes a separate offense.

SECTION 11. DATE OF EFFECT

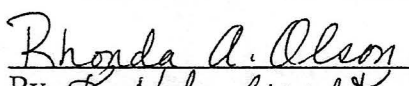
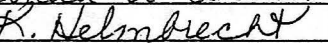
Subd. 1. This ordinance shall be in effect following its adoption by the Town Board and publication in the official town newspaper.

Passed and approved this 21st day of June, 2001.

 Dennis Beier, Chairman

Attest:  Janelle Troupe, Town Clerk

Filed 7-19-01

 County Recorder
By  Deputy