



# Zoning Ordinance

For the

Town of Whited

Kanabec County, Minnesota

February, 1990

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# Whited Township Zoning Ordinance Summary

The minimum size required for a building site is: Five acres. The construction must be set back 75 feet from the right of way (approximately 108 feet from the center of the road) The site must have 300 feet of road frontage and our ordinance stipulates that at least 30 feet set back from the sides or back of the lot. The building must be a minimum of 840 square feet. All dwellings, including manufactured homes must be placed on frost free footings, foundations, pillars, or cement slab. Dwelling units shall not be permitted in areas classified as wetlands, flood plain, peat and muck areas, areas of poor drainage, and areas where the water table depth is less than four (4) feet.

The structure and site shall have an appearance that will not have an effect upon adjacent properties. Any visual appearance, noise, odors, heat, dust, vibration, smoke, air pollution, glare, electrical interference, or other such objectionable influences, or the storage of refuse or disposal of wastes that construed by the Town Board to be a menace or nuisance to the public health, safety, or general welfare of the Town, or to have a depressing influence upon property values in the area shall be prohibited.

"Automobile Wrecking or Junk Yard Any place where three (3) or more vehicles not in running condition and/or not licensed, or parts thereof are stored in the open and are not being restored to operation; or any land, building or structure used for wrecking or storing of such motor vehicle or parts thereof, and including any commercial salvage and scavenging of any other goods, articles or merchandise."

Further ordinances provide the following: No person in charge or control of any property shall allow any unlicensed, partially dismantled, inoperative, wrecked or junked vehicle or mobile home to remain on the property longer than thirty (30) days where said vehicle is visible from a public road or adjacent residence. Up to four (4) such vehicles may be kept on the property, unenclosed, provided that said vehicles are not visible from a public road or adjacent residence. Vehicles shall be screened by buildings or natural vegetation.

Our ordinances further provide for a fine of up to \$500. for each offense.

If you need further information, please call Tom McClellan at 679-2628, Whited Township Zoning Administrator. The Whited Town board meets the first Thursday of each month at 7:30 at the town hall.

## ZONING ORDINANCE FOR THE TOWN OF WHITED, MINNESOTA

THE TOWN BOARD OF THE TOWN OF WHITED ORDAINS: AN ORDINANCE REGULATING THE USE OF LAND, THE LOCATION, SIZE AND USE OF BUILDINGS AND THE ARRANGEMENT OF BUILDINGS ON LOTS IN THE TOWN OF WHITED, MINNESOTA, PURSUANT TO THE AUTHORITY GRANTED BY MINNESOTA STATUTES SECTION 462.357.

### SECTION 1. TITLE AND APPLICATION

- Subd. 1. Title. This Ordinance shall be known as the "Zoning Ordinance of the Town of Whited, Minnesota," except as referred to herein, where it shall be known 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 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. Such regulations are established to provide convenience of access to property;

to prevent congestion in the public right-of-way; to prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards and density of population; to provide for administration of this Ordinance, to provide for amendments; to prescribe penalties for violation of such regulations; to define powers and duties of the Town staff, the Board of Adjustment and Appeals, the Planning Commission, and the Town Board in relation to the Zoning Ordinance.

- Subd. 3. 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.
- Subd. 4. Minimum Requirements. In their interpretation and application, the provisions of this Ordinance shall be held to the minimum requirements for the promotion of the public health, safety and welfare.
- Subd. 5. Conformity with Provisions. 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. 6. Zoning Permits. Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no zoning permit shall be granted that does not conform to the requirements of this Ordinance.
- Subd. 7. Conditional Uses, Variances, Amendments, Appeals. Nothing within this Ordinance shall be construed so to deny any property owner his right to apply for a conditional use permit, variance, amendment, or appeal.
- Subd. 8. Uses Not Provided for Within Zoning Districts. Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such case the Town Board or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable, what zoning district would be most appropriate, and the determination as to conditions and standards relating to development of the use. The Town Board, Planning Commission or property owner, shall, if appropriate, initiate an amendment to the Zoning Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the Town.
- Subd. 9. 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 the Ordinance to a particular 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, wherever they occur in this Ordinance, shall be interpreted as herein defined.

- Subd. 1. Accessory Building or Use. A subordinate building, structure or use which is located on the same lot on which the main building or use is situated and is reasonably necessary and incidental to the conduct of the primary or principal use of such building or main use.
- Subd. 2. Agriculture Uses. Those uses commonly associated with the growing of produce on farms. These

include: field crop farming; pasture; hay; fruit growings tree, plant shrub or flower nursery without building; truck gardening; roadside stand for sale in season; and livestock raising and feeding.

- Subd. 3. Automobile Wrecking or Junk Yard. Any place where three (3) or more vehicles not in running condition and/or not licensed, or parts thereof are stored in the open and are not being restored to operation; or any land, building or structure used for wrecking or storing of such motor vehicles or parts thereof; and including any commercial salvaging and scavenging or any other goods, articles or merchandise.
- Subd. 4. Basement. A portion of a building located partially underground but having more than one-half (1/2) its floor to ceiling height below the average land grade.
- Subd. 5. Buildable Area. The portion of a lot remaining after required yards have been provided, and is capable of supporting the proposed structure(s).
- Subd. 6. Building. Any structure used or intended for supporting and sheltering any use or occupancy.
- Subd. 7. Building Line. That line measured across the width of the lot at the point where the main structure is placed in accordance with setback provisions.
- Subd. 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 accessible by vehicle and 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 Recreation. Privately owned facilities such as a bowling alley, cart track, golf course, pool hall, vehicle racing, riding stables, dance hall, skating, theatre, firearms range, boat rental, amusement rides, campgrounds, deer park, and similar uses.
- Subd. 12. Conditional Use. A use, which because of special problems of control requires reasonable, but special, and extra-ordinary limitations peculiar to the use for the protection of the public welfare and the integrity of the Town's comprehensive plan.
- Subd. 13. Commercial Uses. Any establishment, occupation, employment, or enterprise where merchandise is exhibited or sold, or where services are offered for compensation.
- Subd. 14. Conditional Use Permit. A permit issued by the Town Board in accordance with procedures specified in this Ordinance, as well as its compatibility with the Town's comprehensive plan, as a flexibility device to enable the Town Board to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.
- Subd. 15. 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 therein.
- Subd. 16. Dwelling. A building or portion thereof, designated exclusively for residential occupancy, including one-family, two-family and multiple-family dwellings, seasonal dwellings, manufactured housing, but not including hotels, motels, and boarding houses.
- Subd. 17. Dwelling, Multiple (Apartment). A building designed with three (3) or more dwelling units exclusively for occupancy by three (3) or more families living independently of each other but sharing hallways and main entrances and exits.
- Subd. 18. Dwelling, Single Family. A detached dwelling unit designed for occupancy of one (1) family.

- Subd. 19. Dwelling, Two-Family. A dwelling designed exclusively for occupancy by two (2) families living independently of each other.
- Subd. 20. Earth Sheltered Buildings. Buildings constructed so that more than fifty percent (50%) of the exterior surface area of the buildings, excluding garages and other accessory buildings, is covered with earth. Partially completed buildings shall not be considered earth sheltered.
- Subd. 21. 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. 22. 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. 23. Farm. A tract of land ten (10) or more acres which is principally used for commercial agriculture, all of which is owned and operated by a single family, farm corporation, individual or corporation.
- Subd. 24. Fence. A barrier forming a boundary to, or enclosing some area.
- Subd. 25. 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. 26. Forestry. The management, including logging, or forest, woodland, or plantation, and related research and educational activities, including the construction, alteration or maintenance of woodroads, skidroads, landings, and fences.
- Subd. 27. Garage, Private. An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families resident upon the premises, and in which no business service or industry is carried on; provided that not more than one-half (1/2) of the space may be rented for the private vehicles of persons not resident on the premises, except that all the space in a garage of one (1) or two (2) car capacity may be so rented.
- Subd. 28. Hardship – Undue. The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to his property not created by the landowners.
- Subd. 29. Home Occupation. Any occupation or profession carried on by a member(s) of the family residing on the premises, provided that the use is clearly incidental and secondary to the main use of the premises for dwelling purposes and does not change the character thereof.
- Subd. 30. Industrial Use. Any establishment, occupation, employment, or enterprise where the manufacturing, storage, or warehousing of products and materials occur.
- Subd. 31. Lot, Of Record. A parcel of land, whether subdivided or otherwise legally described of record as of the effective date of this Ordinance, or approved by the Town as a lot subsequent to such date and which is occupied by or intended for occupancy by one (1) principal building or principal use together with any accessory buildings and such open spaces as required by this Ordinance and having its principal frontage on a street, or a proposed street approved by the Board.
- Subd. 32. Lot. Land occupied or to be occupied by one (1) principal building or use and its accessory buildings, together with such open spaces as are required under the provisions of this Zoning Ordinance, having not less than the minimum area required by this Zoning Ordinance for a building site in the district in which such lot is situated and having its principal frontage on a street, or a proposed street approved by the Board.
- Subd. 33. Lot Area. The area of a horizontal plane within the lot lines.

- Subd. 34. 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. 35. Lot, Frontage. The front of a lot shall be that boundary abutting a public right-of-way.
- Subd. 36. 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. 37. 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. 38. Manufacturing. All uses which include the compounding , processing, packaging, treatment, or assembly of products and materials.
- Subd. 39. Mining Operation – Commercial. The removal from the land and sale of stone, sand and gravel, coal, salt, iron, copper, nickel, granite, petroleum products or other material for commercial, industrial, or governmental purposes.
- Subd. 40. 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 was to be erected under the guidance of this Ordinance.
- Subd. 41. Off-Road Loading Space. A space accessible from a public road, 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. 42. 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. 43. 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. 44. Planning Commission. The planning agency of the Town, designated by the Town Board.
- Subd. 45. Principal Use. The primary or main use of land or buildings as distinguished from subordinate, incidental or accessory uses.
- Subd. 46. Public Uses. Uses owned or operated by municipal, school districts, town, county, state or other governmental units.
- Subd. 47. Protected Waters. Any waters of the State which serve a beneficial public purpose, as defined in Minnesota Statutes 1974, Section 105.37, Subdivision 6. 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 Commissioner shall be exempt from the provisions of these regulations.
- Subd. 48. 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. 49. 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.

- Subd. 50. Slope. The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.
- Subd. 51. 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. 52. 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. 53. 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. 54. Variance. The waiving action of the literal provisions of the Zoning Ordinance in instances where their strict enforcement would cause undue hardship because of physical circumstances unique to the individual property under consideration.
- Subd. 55. Wetlands. An area where water stands near, at, or above the soil surface during a significant portion of most years, saturating the soil and supporting a predominantly aquatic form of vegetation and which may have the following characteristics.
- A. Vegetation belonging to the marsh (emergent aquatic) bog, fen, sedge meadow, shrubland, southern lowland forest (lowland hardwood), and northern lowland forest (conifer swamp) communities. (These communities correspond roughly to wetland types 1, 2, 3, 4, 5, 6, 7 and 8 described by the United States Fish and Wildlife Service, Circular 39, "Wetlands of the U.S.", 1956).
  - B. Mineral soils with grey horizons or organic solids belonging to the Histosol order (peat and muck).
  - C. Soil which is water logged or covered with water at least three months of the year. Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands, and properly, may be shallow water bodies, the waters of which are stagnant or actuated by very feeble currents, and may at times be sufficiently dry to permit tillage but would require drainage to be made arable. The edge of a wetland is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.
- Subd. 56. 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. 57. 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. 58. 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. 59. Yard - Side. A yard between the side line of the lot and the nearest line of the building and extending from the front line of the lot to the rear yard.
- Subd. 60. Zoning Administrator. A person appointed by the Town Board to enforce the Zoning Ordinance.
- Subd. 61. Zoning Map. The maps or map incorporated into this Ordinance as part thereof, and as amended, designating the zoning districts.
- Subd. 62. Public Road. For the purpose of this Ordinance public roads shall include only those roads which are owned by the township, county, state, or federal government.



SECTION 3. ZONING DISTRICT PROVISIONS

- Subd. 1. Establishment of Districts. The following zoning districts are hereby established within the Town of Whited.  
A-O, Agricultural-Open Space District  
A-R, Agricultural-Residential District  
S, Shorelands District
- Subd. 2. Map. The location and boundaries of the districts established by this Ordinance are hereby set forth on the zoning map entitled “Zoning Map of the Town of Whited”, hereinafter referred to as the “Zoning Map”, a copy of which is on file with the Town Clerk. Said maps and all of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this Ordinance by reference.
- Subd. 3. Detachment. In the event of changes in the Town boundaries removing territory from the Town, district boundaries shall be construed 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 construed to follow such center lines.
  - B. Boundaries indicated as approximately following 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 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 in Section 13 of this Ordinance.
- 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, except in conformity with all of the regulations herein specified for the district in which it is located.
  - B. No building or other structure shall hereafter be erected, placed, or altered to exceed the height or bulk, to accommodate or house a use, to occupy a greater percentage of lot area, and to have narrower or smaller yards, other 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. Purpose. The (A-O) Agricultural-Open Space District is intended to provide areas to be utilized and retained in agricultural and/or open space uses. Residential uses will also be accommodated provided that the building lot fronts a year round maintained public road existing at the time of enactment of this Ordinance, and that such use will not require the construction or dedication of new public roads. The type, location and density of development in this district is established to minimize government expenditures for public facilities and services.

Subd. 2. Permitted Uses. The following uses are permitted:

- A. Farm buildings which are used for purposes related to the operation of the farm.
- B. Farm production which shall include the raising of crops and animals 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. Single family dwellings subject to the following provisions:
  - 1. Dwelling units shall not be permitted in areas classified as wetlands, flood plain, peat and muck areas, areas of poor drainage, and areas where the water table depth is less than four (4) feet.
  - 2. Dwelling units shall be allowed only on lots which front a year round maintained, public road, in existence upon the effective date of this Ordinance.
- H. Essential services.

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

- A. Commercial recreational parks, campgrounds, and facilities.
- B. Organized group camps.
- C. Commercial extraction of sand, gravel, minerals, or rock.
- D. Two-family and multi-family residences

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

- A. Any structure or use which is incidental to the permitted principal use including garages, sheds, fencing, and landscaping.
- B. Recreational facilities which serve the residents of the principal use.
- C. Operation and storage of vehicles, equipment and machinery which is incidental to the permitted principal use.

- Subd. 5. Lot Area Requirements.
- A. Lot Area. A lot area of not less than five (5) acres for each dwelling unit is required, of which an area of at least one (1) acre is determined to be buildable.
  - B. Lot Width. A lot width of not less than three hundred (300) feet at the building line and a front lot line is required for each dwelling unit.

- Subd. 6. Front, Side, and Rear Yard Requirements.
- A. Front Yard. A front yard of not less than seventy-five (75) feet is required.
  - 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 is required.

SECTION 5. (A-R) AGRICULTURAL – RESIDENTIAL DISTRICT

- Subd. 1. Purpose. The (AR) Agricultural-Residential District is intended to accommodate agricultural and residential uses as the predominant uses, in areas well served by the existing road system and where services and facilities can be provided in the most cost-effective manner.

- Subd. 2. Permitted Uses. The following uses are permitted:
- A. Farm buildings which are used for purposes related to the operation of the farm.
  - B. Farm production which shall include the raising of crops and animals 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. Single family dwellings subject to the following provisions:
    - 1. Dwelling units shall not be permitted in areas classified as wetlands, flood plain, peat and muck areas, areas of poor drainage, and areas where the water table depth is less than four (4) feet.
    - 2. Dwelling units shall be only allowed on lots which front or have an access easement of at least thirty-three (33) feet to a year round maintained public road.
  - H. Essential services.

- Subd. 3. Conditional Uses. The following uses may be permitted upon the issuance of a conditional use permit:
- A. Commercial uses.
  - B. Industrial uses.
  - C. Commercial recreational parks, campgrounds, and facilities.
  - D. Churches.

- E. Organized group camps.
- F. Commercial extraction of sand, gravel, minerals, or rock.
- G. Two family and multi-family residences.

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

- A. Any structure or use which is incidental to the permitted principal use including garages, sheds, fencing, and landscaping.
- B. Recreational facilities which serve the residents of the principal use.
- C. Operation and storage of vehicles, equipment and machinery which is incidental to the permitted principal use.

Subd. 5. Lot Area Requirements.

- A. Lot Area. A lot area of not less than five (5) acres for each dwelling unit is required, of which an area of at least one (1) acre is determined to be buildable.
- B. Lot Width. A lot width of not less than three hundred (300) feet at the building line is required for each dwelling unit.

Subd. 6. Front, Side and Rear Yard Requirement.

- A. Front Yard. A front yard of not less than seventy-five (75) feet is required.
- 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 is required.

## SECTION 6. (S) SHORELAND DISTRICT

Subd. 1. Purpose. The (S) Shoreland District is hereby established to regulate the development of shorelands of public waters within the Town pursuant to Laws of Minnesota 1969, Chapter 777.

Subd. 2. All requirements of the Kanabec County ordinance for the management of shoreland areas shall apply to the Shoreland District of Whited Township and shall be administered by Kanabec County.

## SECTION 7. 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. Dwelling Size. All dwellings shall have a minimum ground floor area of at least eight hundred, forty (840) square feet. Additions to manufactured homes shall not be considered in determining area requirements.
- B. Frost Free Footings. All dwellings, including manufactured homes, must be placed on frost free footings, foundations or pillars.
- 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.
- D. Maximum Building Height. No building shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height, except such height requirements shall not apply to agricultural buildings and structures, belfries, cupolas, domes, spires, monuments, airway beacons, radio or television towers, flag poles, chimneys, or flues, nor to elevators, water tanks, poles, towers and other structures for essential services; nor to similar structures extending above the roof of any building and not occupying more than twenty-five (25%) percent of the area of such roof.
- E. 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 M. S. 462.357.
- F. No garage, tent or accessory building shall at any time be used as an independent residence or dwelling unit, temporarily or permanently.
- G. 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) principal building shall be located on a lot, except in cases described herein. In case of doubt or on any question or interpretation, the decision of the Zoning Administrator shall be final, subject to the right of appeal to the Board of Adjustments and Appeals.

Accessory Residences. A conditional use permit or temporary residence permit may be issued for an accessory residence to be placed or constructed on the same lot as an existing principal in the following cases:

- a. Temporary Accessory Residence During Construction of Permanent Dwelling. In all districts, a twelve (12) month 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 is being constructed, provided:
  - (1) The building permit for the permanent dwelling has been issued.
  - (2) An approved sewer system has been installed on the site to serve the temporary manufactured home.
- b. Temporary Accessory Residence for Health Care Reasons. A twelve (12) month, renewable permit may be issued to allow a manufactured home 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:
  - (1) A doctor's report is submitted indicating the need for a closely supervised independent living arrangement.
  - (2) Adequate sewage facilities exist on the site to accommodate the additional structure.

- c. Accessory Residence for Farm Employees. A conditional use permit may be issued to allow an accessory residence to be placed or constructed and occupied on a farm to provide housing for a person(s) or family which is actively engaged in the operation of the farm, provided:
  - (1) The major portion of the livelihood of the person(s) or family residing is derived from the farm.
  - (2) Adequate sewage facilities exist on the site to accommodate the additional structure.
  - (3) The accessory residence shall not be subsequently divided from the farm unless all lot and setback provisions of this Ordinance are met.
- 2. When issuing or renewing a temporary accessory dwelling permit or issuing a conditional 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 said permit.
- 3. When conditions change, whereby the purpose and conditions of this section are no longer met, the temporary accessory residence may remain and be occupied through the term of the permit, however, the accessory residence shall be removed from the lot within ninety (90) days of the expiration date of the permit.
  - I. Temporary Dwellings. Temporary dwellings including travel trailers, campers, tents, recreational vehicles, and other vehicles or structures which are adaptable for living and may be reasonably transported, may be used for dwelling purposes for a period not to exceed thirty (30) consecutive days or more than thirty (30) days of a sixty (60) day period. Only one temporary dwelling may be placed on a parcel or lot, except for short term periods such as family reunions, and visits which do not exceed a period of seven (7) days.

## SECTION 8. 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.
  - A. Corner Lots. Where a lot is located at the intersection of two (2) or more streets, the width of the yard along the side street shall not be less than seventy-five (75) feet.
  - B. Through Lots. On a lot fronting on two (2) parallel streets, both street lines shall be front lot lines for applying the yard regulations of this Ordinance.
  - C. Earth Sheltered Buildings. Computations for yard requirement 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 projects 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 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. In rear yards: recreational and 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. Lot Area Requirements. The minimum lot area requirements are set forth within the district provisions of this Ordinance.

A. Lot Area Exception. A lot of record existing upon the effective date of this Ordinance which does not meet the area or width requirements of this Ordinance may be utilized provided that the following conditions are met:

1. The combining of adjacent lots to meet the requirements of this Ordinance is not possible.
2. All sanitary sewer standards of the County are met.

## SECTION 9. GENERAL PROVISIONS

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

Subd. 2. Home Occupations. It is the purpose of this subdivision to provide for the use of the home as a place for the operation of a business or profession either as a conditional use or permitted accessory use, provided the occupation is clearly secondary to the principal use of the home as a residence.

A. Home Occupations Requiring a Conditional Use Permit. Home occupations which have the potential for generating a noticeable increase in traffic, requires additional parking, or involves employees not residing in the home, or utilizes an accessory building, shall require a Conditional Use Permit. Such home occupations, such as barber shops, beauty salons, repair shops, clothing shops, bed-and-breakfast inns, museums, animal hospitals and kennels, schools, and similar uses shall require a Conditional Use Permit.

B. Permitted Home Occupations. Home occupations which employ persons residing in the home and do not require additional parking or use of an accessory building, or generate a noticeable increase in traffic shall be permitted. Such home occupations as architects, artists, clergymen, clothing alterations, domestic crafts making and similar uses are permitted.

C. Performance Standards. All home occupations shall conform to the following standards:

1. Conduct of the home occupation does not require alterations to the exterior of the residence which substantially alters the appearance of the residence.
2. Only those persons residing in the home and two other persons may be employed in the home occupation.
3. Signage consists of no more than 1 single or double-faced sign with a maximum area of sixteen (16) square feet per side. A maximum sign area of thirty-two square feet per side may be permitted as a conditional use.
4. The activities, equipment, and materials involved in the home occupation 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 is not visible from a public road or adjacent residences. Such activities and items shall be screened by buildings or natural vegetation.
5. The home occupation shall not generate sewage of a nature or type that cannot be treated by a standard on-site sewage system, or hazardous wastes without an approval plan for off site disposal.

- D. Review by Planning Commission. When deemed appropriate, the Zoning Administrator may bring a proposal or existing home occupation to the attention of the Planning Commission at which time the Planning Commission may permit the use or hold such public hearings, request such information, or require such conditions as deemed necessary to ensure compliance with the performance standards and intent of this Ordinance.

Subd. 3. Land Reclamation. Under this Ordinance land reclamation is the reclaiming of land by the deposit or of materials so as to elevate the grade. All land reclamation shall be controlled under the provisions of the Zoning Ordinance and shall meet the following minimum standards:

- A. The smallest amount of bare ground is exposed for as short a time as feasible.
- B. Temporary ground cover is used and permanent ground cover, such as sod, is planted.
- C. Methods to prevent erosion and trap sediment are employed.
- D. Fill is stabilized to accepted engineering standards.
- E. Final Slopes for cut slopes should be a maximum of 1:1 or 100%; fill slope 3:1, or 30%, and grade or construction slope 5:1, or 20%.

Subd. 4. Commercial Mining. The extraction of sand, gravel, or other material from the land in the total amount of four hundred (400) cubic yards or more for sale and removal thereof from the site shall be defined as commercial mining. In all districts the conduct of commercial mining shall be permitted only upon issuance of a conditional use permit. The following requirements shall apply to commercial mining operations:

- A. In addition to the requirements of Section 12, the following information shall accompany the conditional use permit application in writing with necessary maps.

- 1. Site Plan

- a. Area of site
- b. Proximity of site to lot lines, adjacent structure
- c. Existing drainage and permanent or temporary ponding areas

- 2. Operational Plan

- a. Placement of structures and equipment
- b. Location and amount of materials to be removed
- c. Location and height of materials to be stock piled
- d. Altered drainage and ponding areas
- e. Erosion and sediment controls to be used
- f. Dust, noise, and smoke control
- g. Duration of mining operation
- h. Other activities occurring related to mining activity

- 3. End Use Plan

- a. Final grade of site
- b. Vegetative cover
- c. Use of site

- 4. Other information as may be requested by the Planning Commission or Town Board

- B. The Planning Commission and Town Board may require updated operational plans on an annual basis. The approval of the operational plan shall be a condition of the use permit.
- C. Any use beyond the extraction and stockpiling of materials such as crushing, washing, or processing of materials; the production of architectural or structural stone; or the manufacture of asphalt, concrete or concrete building blocks shall be considered a separate use and may be allowed by issuance of a conditional use permit.



D. The Planning Commission or Town Board may place conditions upon the issuance of the permit in addition to those described in Section 12. These conditions may include:

1. Maintenance standards of site – including weed control, storage and parking of vehicles and equipment.
2. Drainage and sediment control.
3. Fencing and screening.
4. Location and maintenance of access roads and hauling routes.
5. Dust, noise, and smoke control.
6. Setbacks from property lines.
7. Hours of operation.
8. Rehabilitation of land and vegetation.
9. Posting of performance bond to reimburse the Town for any costs which may be incurred for the following:

- a. Costs of bringing the operation into compliance with the conditional use permit requirements.
- b. Costs of reclamation should the permittee fail to execute any part of a reclamation plan as required within this ordinance or as a condition of the permit.
- c. Extraordinary costs of repairing roads due to the special burden resulting from the hauling of materials and traffic associated with the operation. The amount of such cost shall be determined by the County Engineer.

Subd. 5. 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. 6. 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 Statute 1974, Section 105.42 as amended. This alteration includes construction of channels and ditches; lagooning; dredging of lake or stream bottoms for removal of muck, silt or weeds; and filling in the lake or stream bed.

Subd. 7. Off-Road Parking and Loading. All applications for a building permit should include off-road parking and loading areas adequate to serve the proposed development.

Subd. 8. Exterior Storage. All materials and equipment shall be stored within a building or be fully screened by buildings or natural vegetation as to not be visible from a public road or adjacent residence. Exceptions to those requirements are as follows:

- A. Agricultural equipment and materials intended to be used on the premises.
- B. Construction materials and equipment currently being used on the premises.
- C. Off street parking of passenger vehicles.
- D. Recreational equipment for use of residents of principal structure.
- E. Laundry drying equipment.
- F. Merchandise being displayed for sale.

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

- A. No 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 atmosphere or subsoil in such concentration as to endanger the public health, safety, comfort, or welfare, or cause injury or damage to property or business.
- B. The pollution of any well, stream, lake, or body of water by sewage, industrial waste, or other substances is prohibited.

- C. All carcasses of animals shall be buried or destroyed or otherwise disposed of within forty-eight (48) hours after death.
- D. The ownership, possession or control of any unused appliances or other containers with doors which fasten automatically when closed and of sufficient size to retain any person, that are exposed and accessible to the public without the removal of the doors, lids, hinges or latches or the locking thereof to prevent access by the public, is prohibited.
- E. No person in charge or control of any property shall allow any, unlicensed, partially dismantled, inoperative, wrecked or junked vehicle to remain on the property longer than thirty (30) days where said vehicle is visible from a public road or adjacent residence. Up to four (4) such vehicles may be kept on the property, unenclosed, provided that said vehicles are not visible from a public road or adjacent residences. Vehicles shall be screened by buildings or natural vegetation.
- F. All structures, landscaping and fencing shall be reasonably maintained so as to avoid health or safety hazards and prevent a degradation in the value of adjacent property.

Subd. 10 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 that construed by the Town Board to be a menace or nuisance to the public health, safety, or general welfare of the Town, or to have a depressing influence upon property values in the area shall be prohibited.

Subd. 11 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.

#### SECTION 10. NONCONFORMING BUILDINGS, STRUCTURES AND USES

Subd. 1 Purpose. It is the purpose of this Section to provide for the regulation of nonconforming buildings, structures, and uses and to specify those requirements, circumstances, and conditions under which nonconforming buildings, structures, and uses will be operated and maintained. The Zoning 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 buildings, structures, and uses not be permitted to continue without restriction. Furthermore, it is the intent of this Section that all nonconforming uses shall be eventually brought into conformity.

Subd. 2. Any structure or use lawfully existing upon the effective date of this Ordinance shall not be enlarged, but may be continued at the size and in the manner of operation existing upon such date except as hereinafter specified or, subsequently amended.

Subd. 3. Nothing in this Ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Zoning Administrator providing the necessary repairs shall not constitute more than fifty (50) percent of fair market value of such structure. Said value shall be determined by the County Assessor.

Subd. 4. No nonconforming building, 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. 5. 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. 6. 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. 7. If at any time a nonconforming building, structure, or use 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, then without further action by the Board, the building and the land on which such building was located or maintained shall, from and after the date of said destruction, be subject to all the regulations specified by these zoning regulations for the district in which such land and buildings are located. Any building which is damaged to any extent of less than fifty (50) percent of its value may be restored to its former extent. Estimate of the extent of damage or destruction shall be made by the Zoning Administrator.
- Subd. 8. Whenever a lawful nonconforming use of a structure of land is discontinued for a period of twelve (12) months, following written notice from and authorized agent of the Town, any future use of said structure or land shall be made to conform with the provisions of this Ordinance.
- Subd. 9. 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. 10. Alterations may be made to a building or other lawful nonconforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units or size of volume of the building.
- Subd. 11. Any proposed structure which will, under this Ordinance, become nonconforming but for which a building permit has been lawfully granted prior to the effective date of this Ordinance, may be completed in accordance with the approved plans; provided construction is started within sixty (60) days of the effective date of this Ordinance. Such structure and use shall thereafter be a legally nonconforming structure and use.

SECTION 11. 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 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 provided by law.
- Subd. 3. Zoning Permit Required.
  - A. From and after the effective date of this Ordinance, it shall be unlawful to proceed with the construction, placement, or enlargement of the exterior dimension, or changes of use of any building or structure without first obtaining a zoning permit.
  - B. Application. Request for a zoning 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 zoning permit only when the plans comply with this Ordinance and other applicable Town ordinances.
- Sub. 4. Fees.

- A. To defray administrative costs of processing requests for zoning permits, conditional uses, amendments, variances, or appeals, a base fee per application shall be paid by all applicants, in accordance with a fee schedule hereby made part of this Ordinance.
- B. In order to defray any additional cost of processing applications (zoning 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 the production of any materials and the applicant shall be given a reasonable estimate of project time and/or materials costs.
- C. 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 Administrator at the time the base fee is paid.

Subd. 5. Kanabec County shall be responsible for the administration of all applicable County ordinances and regulations, including those addressing shorelands and onsite sewage treatment systems.

## SECTION 12. AMENDMENTS AND CONDITIONAL USE PERMITS

### Subd. 1. Procedure.

- A. Request for amendments or conditional use permits, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall also be accompanied by complimentary 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 and a report at least fifteen (15) days before the next regular meeting.
- B. The Zoning Administrator 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. A similar notice shall also be mailed not less than ten (10) days to all property owners of record according to the county assessment records, (within one quarter (1/4) mile or the ten (10) properties nearest property to which the request relates, whichever would provide notice to the greatest number of owners). A copy of the notice and a list of the property owners and addresses to which the notices 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 at its next regular meeting unless the filing date falls with fifteen (15) days of said meeting, in which case the request would be placed on the agenda and considered at the regular meeting following the next regular meeting. The Zoning Administrator shall refer said application, along with all related information, to the Town Planning Commission for consideration. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed amendment or 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, operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operation

factors, if information is declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance.

E. Within sixty (60) days from the date of the public hearing, the Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request of the Town Board.

1. The Planning Commission shall consider possible adverse affects of the proposed amendment or conditional use. Its judgment shall be based upon (but not limited to) the following general factors:

a. Relationship to the Town's Comprehensive Plan and Policies.

b. The use will not create an excessive demand on public services and facilities.

(1) 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.

(2) The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties.

(3) The use in the opinion of the Town is reasonably related to the overall needs of the Town and to the existing land use.

(4) The use is consistent with the purposes of the zoning ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.

(5) The use will not cause traffic hazard or congestion.

2. In considering conditional use requests, the Planning Commission shall evaluate the use, utilizing from the requirements "a" through "l" below, those which are specific to the designated uses as indicated in "3" below.

a. The land area and setback requirements of the property containing such a use or activity shall be the minimum established for the district.

b. When abutting a residential use in a district permitting residences, the property shall be appropriately screened and landscaped.

c. Where applicable, all Town, County, State and federal laws, regulations and ordinances shall be complied with and all necessary permits secured.

d. 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 open and outdoor storage, sales and service areas shall be screened from view from abutting residential uses or districts.

i. All lighting shall be designed as to have no direct source of light visible from adjacent residential areas or from the public streets.

j. The use or activity shall be properly drained to control surface water runoff and prevent erosion.

k. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence.

l. 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 conditional use application shall comply with the minimum specific requirements pertaining to each designated conditional use as stated below.

<u>Conditional Use</u>	<u>Requirements</u>
Commercial uses	a,b,c,d,e,f,g,h, i,j,k,l
Industrial uses	a,b,c,d,e,f,g,h, i,j,k,l
Commercial recreational parks, campgrounds, facilities	a,b,c,d,e,f,g,h, i,j,k,l
Churches	a,c,e,f,g,k,l
Organized group camps	a,b,c,d,e,f,g,k,l
Extraction of sand, gravel, minerals, or rock	a,b,c,d,e,f,g,j
Two-family, multi-family residences	a,c,e,f,g,j,k

4. The Township may impose such additional restrictions or conditions as deemed necessary to protect the public interest. When appropriate, restrictive covenants may be entered into regarding such matters. These conditions, in addition to those specific requirements set forth in paragraph E, 2 and 3 of Subdivision 1 of this Section, 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 number of required off-street parking spaces.
- f. Increasing the street width.
- g. Increasing the number of required off-street parking spaces.
- h. Limiting the number, size, location or lighting of signs.
- i. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- j. Designating sites for open spaces.

All conditions pertaining to the specific site are subject to change when the Planning Commission or Town Board, upon investigation, finds that the community safety, health, welfare and public betterment can be served as well or better by modifying the conditions.

- G. Upon receiving the report and recommendation of the Planning Commission, or until sixty (60) days after the first Planning Commission meeting, at which the request was considered, the Town Board shall place the report and recommendation on the agenda for the next regular meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the Town Board meeting.
- H. Upon receiving the report and recommendation of the Planning Commission, the Town Board shall either:
  1. Approve or disapprove the request as recommended by the Planning Commission, based upon whether the application meets the requirements stated in the Ordinance.
  2. Approve or disapprove the recommendation of the Planning Commission with modifications, alterations, or differing conditions. Such modifications, alterations or

- differing conditions shall be in writing and made part of the Board's records, or
3. Refer the recommendation back to the Planning Commission for future consideration. This procedure shall be followed only one time on a singular action.

Approval of a request shall require passage by two-thirds (2/3) of the full Town Board. The Zoning Administrator or Town Clerk shall notify the applicant of the Board's action.

- I. The recommendation of the Planning Commission shall be advisory to the Town Board. The decision of the Town Board shall be final subject to judicial review.

Subd. 2. Amendments – Initiation. The Town Board or Planning Commission may, upon their own motion, initiate a request to amend the text or the district boundaries of this Ordinance. Any person owning real estate within the Town may initiate a request to amend the district boundaries or text of this Ordinance so as to affect the said real estate. All amendment requests must first be reviewed by the Planning Commission.

Subd. 3. Lapse of Conditional Use Permit by Non-Use. Whenever within one (1) year after granting a conditional use permit, the work as permitted by the permit shall not have been completed, then such permit shall become null and void unless a petition for extension of time in which to complete the work has been granted by the Town Board. Such extension shall be requested in writing and filed with the Zoning Administrator or Town Clerk at least thirty (30) days before the expiration of the original conditional use permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the conditional use permit. Such petition shall be presented to the Planning Commission for a recommendation and to the Town Board for a decision and shall be requested only one time on a singular action.

Subd. 4. Performance Bond. The Planning Commission and Town Board shall have the authority to require a performance bond or other security when it is deemed necessary and appropriate.

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

## SECTION 13. VARIANCES AND APPEALS

Subd. 1. Board of Adjustment and Appeals. The Planning Commission shall act as the Board of Adjustment and Appeals and shall have the following powers:

- A. To 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. To 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.

Subd. 2. Procedures.

- A. Requests for variances or appeals shall be filed with the Zoning Administrator on an official application form. Such application shall also be accompanied by complimentary copies of detail written or graphic materials fully explaining the proposed request. The Zoning Administrator shall refer said application, along with all related information to the Board of Appeals, for consideration.
- B. The Board of Adjustment and Appeals, shall consider the request at its next regular meeting unless the filing date falls within fifteen (15) days of said meeting, in which case the request would be placed on the agenda and considered at the regular meeting following the next regular meeting. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the variance request.
- C. The Board of Adjustment and Appeals and Town staff shall have the authority to request additional information from the applicant or to retain expert testimony from the applicant or to retain expert testimony with the consent and at the expense of the applicant when said information is declared necessary.
- D. The Board of Adjustment and Appeals may require a public hearing to be held in cases where it is determined that there will be an impact on adjacent properties. Written notice of said hearing shall be sent to property owners within five hundred (500) feet of the proposed action.
- E. Within sixty (60) days from the date of the first meeting at which the request was considered, the Board of Adjustment and Appeals shall make a finding of fact. Such finding shall be entered in and made a part of the written record of the Board of Adjustment and Appeals' meeting.

- 1. In considering requests for variances, the Board of Adjustment shall make a finding of fact as to whether the request meets all of the following cases.
  - (a) The proposed action will be in keeping with the spirit and intent of the comprehensive plan and ordinance.
  - (b) The property in question cannot be put to a reasonable use if used under conditions allowed by this Ordinance.
  - (c) The plight of the landowner is due to circumstances unique to his property and not created by the landowner.
  - (d) The variance, if granted, will not alter the essential character of the locality or adversely impact the environment.
  - (e) The variance requested is the minimum variance which would alleviate the hardship.

If the variance request meets all of the conditions of items (a) through (e) above, the variance may be granted. Economic considerations alone shall not constitute an undue hardship if reasonable use of the property exists under the terms of the Ordinance. Access to direct sunlight in cases of solar energy systems shall constitute grounds for granting a variance. The Board of Adjustment and Appeals may not permit as a variance any use which is not permitted within the zone that the property is located.

- F. Approval of variances or appeals shall require passage by two-thirds (2/3) vote of the Board of Adjustment and Appeals. The Zoning Administrator or Town Clerk shall notify the applicant of the action. The decision of the Board of Adjustment and Appeals shall be final subject to judicial review.
- G. A certified copy of every variance shall be filed with the County Recorder.

Subd. 3. Lapse of Variance or Appeal. Whenever within one (1) year after granting a variance or appeal the work as permitted by the variance or appeal shall not have been completed, then such variance or appeal shall become null and void unless a petition for extension of time in which to complete the work has been granted by the Board of Adjustment and Appeals. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original variance or appeal. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance or appeal. Such petition shall be presented to the Board of Adjustment and Appeals for a decision, and shall be requested only one time on a singular action.

Subd. 4. Performance Bond. The Planning Commission shall have the authority to require a performance



bond or other securities when it is deemed necessary and appropriate.

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

#### SECTION 14. 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 Rules, Parts 4410.0200 – 4410.7800 as amended, to implement the Environmental Review Program.

#### SECTION 15. PENALTIES AND VIOLATIONS

- Subd. 1. Any person who violates any provision of this Ordinance shall, upon conviction thereof, be fined not more than five hundred dollars (\$500) for each offense, or imprisoned for not more than ninety (90) days, or both. Each day that the violation is permitted to exist constitutes a separate offense.

#### SECTION 16. DATE OF EFFECT

- Subd. 1. Date of Effect

This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Passed and approved this 1<sup>st</sup> day of February, 1990.

/s/ Tom McClellan

Chairman

Attest: /s/ Robert Monson, Town Clerk

RESOLUTION NUMBER \_\_\_\_\_

WHITED TOWNSHIP  
COUNTY OF KANABEC  
STATE OF MINNESOTA

A RESOLUTION ADOPTING THE WHITED TOWNSHIP ZONING ORDINANCE

WHEREAS, the Whited Township Board has been requested to develop a plan for the orderly and economical development within the Township; and

WHEREAS, the Whited Township Planning Commission has held a public hearing for all citizens of the Township to submit testimony regarding the development of a Zoning Ordinance for the Township; and

WHEREAS, the Whited Township Board deems it necessary to adopt a Zoning Ordinance to promote the health and welfare of the Township residents, and protect and preserve the environment and the quality of life in Whited Township.

NOW THEREFORE BE IT RESOLVED, that the Whited Township Board has received and reviewed the recommendation of the Whited Planning Commission for the Passage of the Zoning Ordinance for Whited Township; and

BE IT FURTHER RESOLVED, that the Whited Township Board hereby adopts the Whited Township Zoning Ordinance.

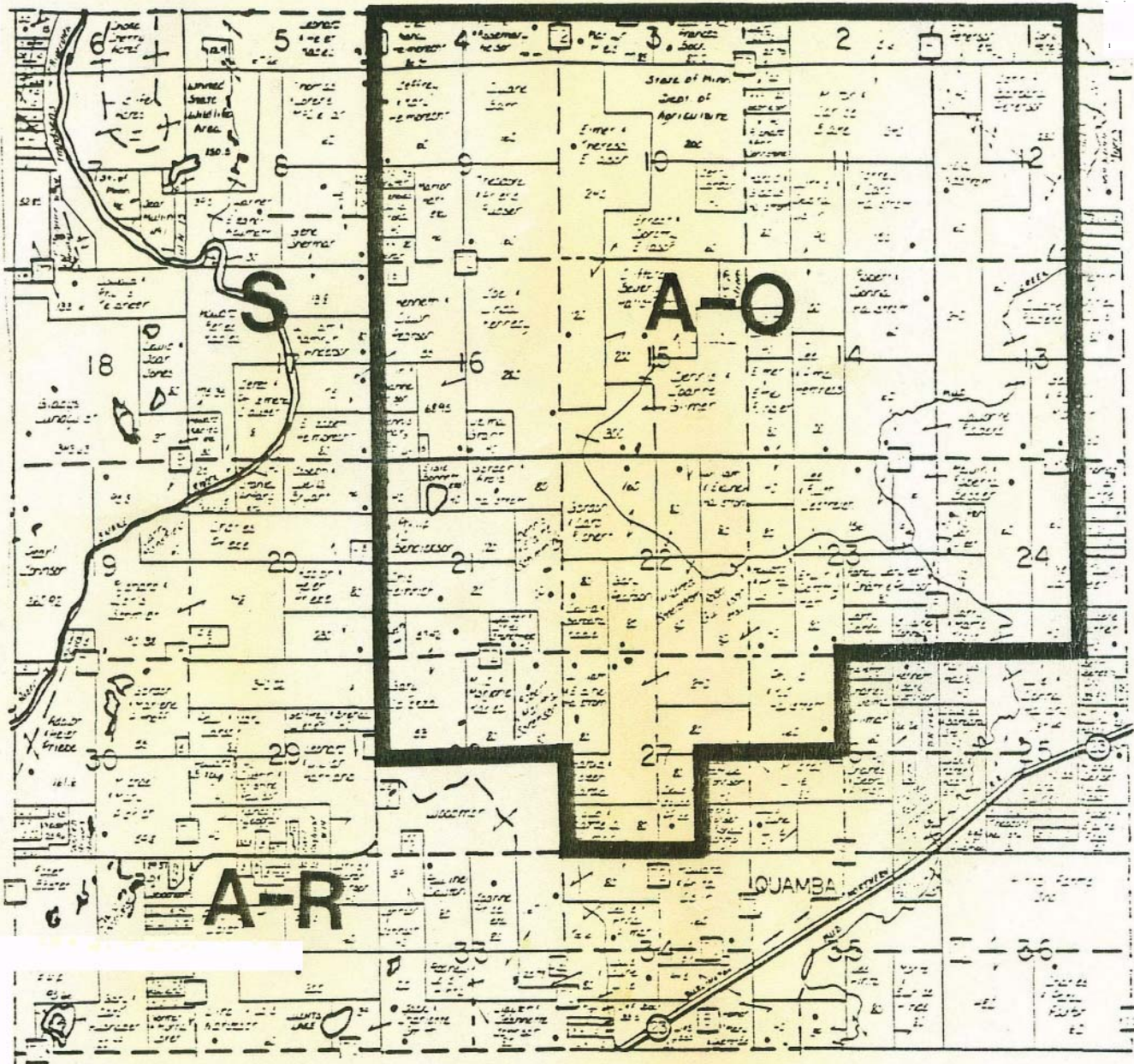
Adopted the 1<sup>st</sup> day of February, 1990 by the Whited Township Board.

/s/ Tom McClellan

Tom McClellan, Township Chairman

Attest:

/s/ Robert Monson



## FUTURE LAND USE PLAN

Agricultural – open space area

Agricultural – residential area

Shorelands area