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# DUNN TOWNSHIP ZONING ORDINANCE

Adopted: July 10, 2017

**The Town Board of Dunn Township hereby ordains:** The Dunn Town Board adopts this Zoning Ordinance for the purposes of promoting the health, safety and public welfare in Dunn Township, Otter Tail County, Minnesota by controlling certain land uses, controlling potential damage of township roads and bridges, and by providing for the enforcement and administration of this Ordinance. This Zoning Ordinance is intended to apply equally throughout the Township, except for shoreland areas of the Township regulated by Otter Tail County. As of the date hereof, Otter Tail County has adopted a Shoreland Management Ordinance, but has not adopted any County wide zoning ordinance. The Dunn Planning Commission and the Dunn Town Board believe that the Shoreland Management Ordinance of the County provides adequate protection of Dunn residents on issues not addressed by this Ordinance. The vision for Dunn Township is to be a sustainable community that encourages sustainable development.

This Dunn Township Zoning Ordinance is an amendment to, and hereby replaces, the Dunn Township Zoning Ordinance as amended on February 10, 2014.

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**ARTICLE I – GENERAL PROVISIONS**

**DIVISION 10: GENERAL ORDINANCE PROVISIONS**

**Section 10-010 Title and Application**

This Ordinance shall be referred to as the Dunn Township Zoning Ordinance. This is an ordinance regulating the use of all land in the Township of Dunn for purposes identified herein for regulation in a manner consistent with or more restrictive than those regulations of Otter Tail County, not including regulation of incorporated and shoreland areas. The Township is responsible for administration and enforcement of this Township Ordinance and believes that Otter Tail County is responsible for administration and enforcement of County Shoreland and any other County ordinances, as adopted from time to time. Dunn Township initially adopted a Zoning Ordinance in 1987 and adopted amendments thereto most recently in February 2014, which this Ordinance replaces.

**Section 10-020 Intent and Purpose:**

The Town Board adopts this Ordinance pursuant to the provisions of Minnesota Statutes, Chapter 462, including Sections 462.351 - 462.364, for the following purposes:

1. Protecting the public health, safety, and general welfare of the Township;
2. To guide the future growth and development of the Township;
3. Protecting and preserving the natural environment of the Township;
4. To protect and promote the value of land throughout the Township;
5. To bring about the gradual conformity of the uses of land and buildings throughout the Township through the zoning plan set forth in this Ordinance, and to minimize the conflicts among the uses of land and buildings;
6. To provide a guide for public policy and action in the efficient provision of public facilities and services and for private enterprises in building development, investment and other economic activity relating to uses of land and buildings throughout the Township;
7. To establish official controls that are consistent with or more restrictive than the official controls, if any, of Otter Tail County; and

8. To preserve and enhance the quality and the economic and natural environmental values of the Township, and provide for the wise utilization of these land resources.

**Section 10-030 Definitions:**

The following words and terms, whenever they occur in this Ordinance, have the following definitions:

**Adjoining** - To be next to, nearby or sharing an edge or boundary. For purposes of this ordinance, parcels of land split by a road shall be considered adjoining.

**Agriculture** – the use of land for agricultural purposes, including: farming, dairying, pasturage agriculture, horses, horticulture, forestry, animal husbandry, and the necessary accessory for packing, treating or storing the produce; provided that, however, the operation of any such accessory use shall be secondary to that of the normal agricultural activities.

**Agricultural Building or Structure** – structures customary and incidental to farming and the raising of animals, including barns and other animal shelters, corrals and fences, silos and storage sheds for machinery and crops.

**Animal Feedlot** – A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered to be animal feedlots. Two or more new animal feedlots under common ownership or operation are considered to be a single animal feedlot if they adjoin each other or if they use a common area or system for the utilization of waste.

**Animal Unit (AU)** – A unit of measure used to compare differences in the production of animal manures that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer. For the purposes of this definition, the Township intends to follow the definitions of the Minnesota Pollution Control Agency, as amended.

**Conditional Use** – a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

**Discontinuance** - In the event that a legal nonconforming use of any structure or structure and land is discontinued for a period of thirty (30) months or more, the use of

the same shall conform thereafter to the uses permitted in the district in which it is located and this Ordinance and shall forfeit status as a legal nonconforming use.

**Dwelling** - Any structure, or portion of a structure, used exclusively for residential purposes, including one-family, two-family and multiple family dwellings, but not including rental or timeshare accommodations such as a motel, hotel and resort rooms and cabins.

**Dwelling Unit** – A room or group of rooms located within a dwelling to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping.

**Family** – An individual or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling; or a group of not more than four (4) persons who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit.

**Illegal nonconforming use** - An illegal nonconforming use exists where a parcel of land violates the current zoning regulations and also violated the regulations that previously existed at the time the use commenced.

**Legal nonconforming use** - A legal nonconforming use exists where a parcel of land violates, but is exempt from, the requirements of current zoning regulations due to improvements made by an owner prior to/before the adoption of the current zoning regulations so that the nonconforming use lawfully existed before the enactment of the current zoning ordinance.

**Lot** – A parcel of land designated by plat, metes and bounds, registered land survey, auditor’s plat or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease or separation.

**Manufactured home** - A manufactured home as defined in Minnesota Statutes, Chapter 327, as amended from time to time, which is subject to a security interest or other valid encumbrance, and which is the principal residence of the manufactured home’s occupant or is not the principal residence of the occupant.

**Manufactured home park** - A manufactured home park as defined in Minnesota Statutes, Chapter 327, as amended from time to time, and meaning any site, lot, field or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

**Multi-family dwelling** – A building or portion thereof used for occupancy by two or more families living independently of each other and containing two or more dwelling units, including what is commonly known as an apartment building.

**Nonconformity** – Defined as provided for in Minn.Stat. Sec. 462.357, Subd. 1e, as amended. The lawful use or occupation of land or premises existing at the time of the adoption of this Zoning Ordinance, or any amendments thereto, that does not conform to the requirements of this Zoning Ordinance.

**Plat** – A map or drawing which graphically delineates the boundary of land parcels for the purpose of identification and record of title. The plat is a recorded legal document and must conform to all applicable laws and regulations.

**Practical Difficulties** - As used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties shall have that definition and meaning as set forth in Minn. Stat. 462.357, subd. 6, as amended hereinafter from time to time by the Minnesota Legislature.

**Rebuild/reconstruction** – Rebuilding or reconstruction of a structure or improvement that is a legal nonconforming use if destroyed to an extent greater than fifty percent (50%) of the replacement value of the structure or improvement so that the landowner shall only rebuild or reconstruct the structure or improvement destroyed to such an extent by complying with the conditional use permit or variance requirements of this Ordinance.

**Setback** – the minimum horizontal distance between a structure, well or sewage disposal system and another element such as street or highway right-of-way, side property lot line, etc.

**Single-family dwelling** – A structure designated or used for residential occupancy by one family, also consistent with Minnesota Statutes Sec. 462.357, Subd. 7, as amended from time to time.

**Variance** – any modification or variation of official controls where it is determined that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

**Section 10-040: Standard Requirements:**

The following standards shall apply unless otherwise noted in this Ordinance.

1. More Restrictive Provisions to Govern. Where the conditions imposed by any provisions of this Ordinance are either more restrictive or less restrictive than

- comparable conditions imposed by any other law, ordinance, code, statute, resolution or regulation, the more restrictive regulations shall prevail.
2. Interpretation. The terms of this Ordinance shall be held to the minimum requirements to satisfy the Intent and Purposes of this ordinance.
  3. Nonconformities. All lawful uses existing at the time of adoption of this Ordinance shall be permitted to continue in size, nature and location, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion.
  4. Conformity with Ordinance. All new and expanded land uses subject to this Zoning Ordinance shall comply with the requirements of this Ordinance. No building, structure or improvement subject to this Zoning Ordinance shall be erected, constructed, expanded, enlarged, or used for any purpose that is not in conformity with this Ordinance.
  5. Discontinuance. In the event of discontinuance of a legal nonconforming use for a period of thirty (30) months or more, the use shall thereafter conform to the terms of this Ordinance and shall forfeit status as a legal nonconforming use.
  6. Completion of Work under Permit or Approval. Projects shall be substantially completed within eighteen (18) months of receiving a permit or other approval from the Township or the permit or other approval shall be void and of no effect.
  7. In the event that any legal nonconforming structure or improvement is destroyed to an extent greater than fifty percent (50%) of the replacement value of the structure or improvement and no building or other permit has been applied for within 180 days of when the property is damaged, any rebuilding or reconstruction of such structure or improvement shall comply with this Ordinance and shall first obtain a building, conditional use permit or variance, if applicable, in which the Township may impose reasonable conditions in order to mitigate any newly created impact on adjacent property.
  8. Floodplain areas. All repairs, replacements, maintenance, improvement or expansion of nonconforming uses and structures in floodplain areas shall first obtain a conditional use permit under this Ordinance to ensure that the nonconforming use and structure maintains eligibility in the National Flood Insurance Program and does not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.
  9. All Provisions Have Meaning. No provisions of this Ordinance are mere boilerplate. Courts of competent jurisdiction shall enforce all provisions of this Ordinance with equal force and effect.
  10. Consistency with Minn.Stat. 462.357. In the event of any conflict of any provision of this Ordinance with Minn.Stat. 462.357, as amended, the statute shall govern and establish minimum standards for purposes of this Ordinance.

**Section 10-050: Separability:**

The several provisions of this Ordinance are separable in accordance with the following:

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

**Section 10-060: Vested Rights:**

Nothing in this or any referencing ordinance shall be interpreted or construed to give rise to any permanent vested rights. Land uses regulations are deemed to be subject to subsequent amendment, change or modifications as may be necessary to promote the public health, safety and general welfare.

**ARTICLE II – GENERAL ZONING DISTRICT AND REGULATIONS**

**DIVISION 20: ZONING DISTRICT**

**Section 20-010: Districts.**

The following zoning districts are hereby established: 1) agricultural/residential district (“Ag/Residential District”); 2) Shoreland Management; and 3) Commercial.

**Section 20-020: Purposes.**

The Ag/Residential District is intended to apply to the entire land and water area under the jurisdiction of this Ordinance, excluding those areas of the Township within the jurisdiction of the Otter Tail County Shoreland Management Ordinances, which are shoreland management, and those areas designated as commercial. The purposes of the Ag/Residential District include to preserve and promote the use of land for agricultural purposes, farm residences, rural residential uses and such other uses that are compatible with and complementary to such agricultural and residential uses.

The Commercial District is to provide for the establishment of commercial, industrial, and service activities which draw from and service the customers from the entire community or region; to reserve areas suitable for residential development from encroachment by commercial and industrial uses; and to adhere to the Comprehensive plan and to protect valuable agricultural land from conversion to other uses.

The areas zoned commercial are all areas outside of the Shoreland district and are entirely located within 660 feet of the centerline of US Highway 59 and/or Minnesota State Highway 34 in Dunn Township sections 1, 11, 12, 13, 14, 15, 16, 19, 20, 21, 22, 29 & 30.



**Section 20-030: Permitted Uses.**

The following land uses are allowed without any regulation or review by the Township under this Zoning Ordinance in the Ag/Residential District. By enumerating these categories in this section of this Ordinance, Dunn Township intends to establish only those official controls that are consistent with or more restrictive than the official controls of Otter Tail County, if any, pursuant to the requirements of Minn.Stat. 394.33:

1. Agricultural uses, buildings and structures, including new or expanded feedlots under 150 animal units;
2. Residential uses on any one farm, including one two-family dwelling or two single-family dwellings, including mobile or manufactured homes, used by the owners, renters or operators of the farm in connection with the farm operation.
3. Residential uses, including single-family dwellings, garages and storage structures associated with residential that meet the zoning standard requirements of this ordinance;
4. Garages used for private storage only and not for commercial purposes.
5. Essential services or utilities, including transmission and distribution lines and pipelines of public utility companies within existing public rights of way; and
6. All other uses allowed as permitted uses or conditional uses within Dunn Township by the Otter Tail County Land Use or Zoning Ordinance, if adopted and as amended from time to time by the Otter Tail County Board of Commissioners, and not otherwise regulated by this Township Ordinance.

**Section 20-040 Conditional Uses**

The following are conditional uses under this Zoning Ordinance in the Ag/Residential District.

1. The offices of members of the recognized professions, such as doctors of medicine and dentistry, chiropractors and engineers, lawyers and architects, provided such professions are carried on in their respective dwellings.
2. Federal, state or local government buildings and facilities.
3. Nursing homes, hospitals, or sanatoria.
4. Resorts and campgrounds with a minimum lot size of 60 feet by 100 feet for each resort or campground unit; and other recreation oriented commercial use.
5. Customary home occupations in the dwelling, provided that such occupation shall be carried on in the main building, and provided further that no more than 25 percent of the floor space of the dwelling is used for this purpose.
6. Churches, chapels, temples and other houses of worship.
7. Junior and senior high schools, and incidental uses when situated of the same site or unit of property.
8. Cemeteries.
9. Two-family and multi-family dwellings.
10. Junk auto and machinery salvage yards.

11. Location of a mobile home or other dwellings upon a lot which already contains a business or a dwelling. Such use shall be permitted only when it is found that it is compatible with existing nearby uses as well as with the overall plans, and it shall be presumed that such uses are incompatible with existing uses until shown to the contrary.
12. Mobile home parks and R.V. parks with a minimum lot size of 60 feet by 100 feet for each mobile home or R.V. unit.
13. Parks and playgrounds.
14. Railroad right-of-way, regional pipelines, power transmission lines and relay towers.
15. Wind Turbines and Wind Towers, consistent with the authority of the Township to regulate such uses under Minn.Stat. Sec. 216F.07, as amended from time to time.
16. Establishment and maintenance of any public firing range or public hunting area.
17. Commercial uses.
18. Animal feedlots with a capacity to hold over 150 animal units but less than 500 animal units.
19. Such other uses and structures as may from time to time be approved by the town board upon proper application.
20. Any repair, replacement, maintenance, improvement or expansion of nonconforming uses and structures in floodplain areas.
21. Platted Subdivisions and Planned Unit Developments (PUDs).

**Section 20-050: Prohibited Uses.**

The following are prohibited uses under this Zoning Ordinance in the Ag/Residential District.

1. Adult use or adult entertainment facilities within 2 miles of any residence.
2. Industrial facility for storage of hazardous waste, biomedical waste or garbage/waste transfer station.
3. New or expanded feedlots with a capacity to hold over 500 animal units.
4. Discharge of firearm with the muzzle pointed toward any building, road, person, domestic bird or animal, machinery, equipment or vehicle.
5. Discharge of a firearm within 500 feet of any building without the permission of the owner or occupant of said building.
6. No private driveway or field approach shall be constructed to connect to a township road except by permit furnished by the town board.
7. No private crops, trees, shrubs or fences may be planted, constructed or located within 33 feet of the center line of any public road.

**Section 20-060: Zoning Requirements.**

1. Single family dwellings used for residential purposes, erected, placed or located:
  - (a) If within a Shoreland Management District as defined in the Shoreland Management Ordinance of Otter Tail County, Minnesota, then subject to all requirements and conditions contained in said Shoreland Management Ordinance.

(b) If outside of a Shoreland Management District as defined in the Shoreland Management Ordinance of Otter Tail County, Minnesota, then subject of the following:

- (1) A minimum of 60 feet from the right-of-way line of public road.
- (2) A minimum of 20 feet from the boundary line of real estate owned by others.
- (3) On a lot not less than 108,200 square feet in area (2 ½ acres).
- (4) On a lot having a minimum frontage of 200 feet.

**Section 20-070: Commercial District Requirements.**

1. Commercial Lots.
  - a. Must be at least 1320 feet from any dwelling unless written permission is given by the owner of the dwelling.
  - b. Must be separated from other zoning districts by natural or commercial screening, such as but not limited to hills, trees, shrubs or fencing. Plans for such screens shall be submitted as part of the application for a building permit and installed as part of the initial construction.
  - c. Minimum Lot dimensions:
    - i. 100 feet at the front lot line.
    - ii. 150 feet at the shortest side lot line.
    - iii. Area of 40,000 square feet.
  - d. Lot dimensions less than any of the above shall require a conditional use permit.
  - e. Must have area set aside for 2 onsite sewage treatment systems.
  - f. Must be in harmony with the comprehensive plan.
2. Integrated developments.

The above lot requirements need not necessarily apply to integrated developments under single ownership, which developments shall be submitted to the Planning Commission for their consideration. Plans for such developments shall include plans and other architectural drawings indicating function, floor plans, elevations, and typical vehicular circulation system, ingress and egress points and control, special landscaping and fencing along land uses of a different type and the layout of adequate off-street parking and loading and unloading facilities.
3. Ingress/Egress.

Any development in the Commercial District must provide plans and specifications for vehicle ingress/egress and estimated traffic flows to the Township for examination and approval and where required be submitted to the proper State or County officials for their examination and approval before any building permit shall be issued.
4. Lot Development.
  - a. Noise – Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency, shrillness or intensity.

- b. Odors, vibration, smoke, dust, fumes or gases – Odors, vibration, smoke, dust, fumes or gasses shall be controlled so as not to become objectionable.
  - c. Glare – Glare shall be controlled so as not to become objectionable.
  - d. Exterior Lighting – Any lights used for exterior illumination shall direct light away from adjoining properties.
  - e. Hazard. – Every operation shall be carried on with reasonable precautions against fire and explosion hazards.
  - f. Wastewater – Every operation shall have an approved wastewater system.
  - g. Height – The maximum height of any structure shall be 75 feet. Any part of any structure may exceed this height only with a conditional use permit and with compliance with all other regulations.
  - h. Structure Setbacks are 100 feet from centerline of any public road and ten feet from any lot line.
5. Permitted Uses within the Commercial District.
- a. Commercial Agriculture.
  - b. Retail sales and/or services, with no outdoor storage.
  - c. Office complexes with no outdoor storage.
  - d. Churches.
  - e. Financial Institutions.
  - f. Mini-Storage.
  - g. Nurseries/garden store.
  - h. Gas and Convenience store.
  - i. Contractor offices, shops and yards with no outdoor storage.
  - j. All uses permitted in the Ag/Residential District.
6. Conditional Uses within the Commercial District.
- a. Any business with outdoor storage.
  - b. Residential housing. (Implies exemption from setback for other commercial development).
  - c. All uses allowed as a conditional use in the Ag/Residential District.
  - d. Any uses not listed under permitted uses.
7. Prohibited Uses within the Commercial District.
- a. Any use which may create hazards or add known environmental hazards to the surface or subsurface soils or water, groundwater, surface coverage or air in the township.
  - b. Any business or establishment that generates over 25,000 gallons of wastewater per day.
  - c. All uses prohibited in the Ag/Residential District.
8. Commercial District Building Permit Requirements. Applicants shall complete an application on a form approved by the Town Board and shall include a site plan acceptable to the Town Board.

**Section 20-080: Subdivision/Platting Standards.**

1. Purpose. To ensure that new development within the Township outside of the Shoreland Management jurisdiction of the County minimizes impacts to the township resources and is safe and functional.

2. Land suitability. Each lot created through subdivision, including planned unit developments authorized under this ordinance, must be suitable in its natural state for the proposed use with minimal alteration. A suitability analysis must be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

3. Consistency with other controls. Subdivisions and each lot in a subdivision shall meet all official controls so that a variance is not needed later to use the lots for their intended purpose.

4. Water and Sewer Design Standards.

- a. A potable water supply and a sewage treatment system consistent with Minn. R. Ch. 7080-7081 must be provided for every lot.
- b. Each lot must include at least two soil treatment and dispersal areas that support systems described in Minn.R. parts 7080.2200 to 7080.223 or site conditions described in parts 7081.270, subs. 3 to 5, as applicable.
- c. Lots that would require use of holding tanks are prohibited.

5. Information requirements.

- a. Topographic contours at ten-foot intervals or less from United States Geological survey maps or more current sources, showing limiting site characteristics.
- b. Adequate soils information to determine suitability for building and sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods.
- c. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities.
- d. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data.
- e. A line or contour representing the minimum building setback distances from the top of the bluff and the lake or stream.

6. Dedications. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

7. Platting. All subdivisions that cumulatively create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. The minimum setback shall be 40 feet from the right-of-way of public road. The minimum lot size shall be 20,000 square feet in area. The minimum frontage shall be 120 feet. All lots shall have adequate utility easements.

**Section 20-090: Planned Unit Developments (PUDs).**

1. Purpose. To protect and enhance the natural and scenic qualities of areas within the Township outside of the Shoreland Management jurisdiction of the County during and after development and redevelopment of high density residential and commercial uses.
2. Types of PUDs Permissible. Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Deviation from the minimum lot size standards of this ordinance is allowed if the standards in this Section are met.
3. Processing of PUDs. Planned unit developments must be processed as a conditional use. An expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in this Ordinance. Approval cannot occur until all applicable environmental reviews are complete.
4. Application for a PUD. The applicant for a PUD must submit the following documents prior to final action on the application request:
  - a. Site plan and/or plat showing:
    - i. Locations of property boundaries.
    - ii. Surface water features.
    - iii. Existing and proposed structures and other facilities.
    - iv. Land alterations
    - v. Sewage treatment and water supply systems (where public systems will not be provided).
    - vi. Topographic contours at ten-foot intervals or less.
    - vii. Identification of buildings and portions of the project that are residential, commercial, or a combination of the two (if project combines commercial and residential elements).
  - b. A property owners association agreement (for residential PUD's) with mandatory membership, and consistent with this ordinance.
  - c. Deed restrictions, covenants, permanent easements or other instruments that:
    - i. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs.
    - ii. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in this ordinance.
  - d. A master plan/site plan describing the project and showing floor plans for all commercial structures.
  - f. Additional documents necessary to explain how the PUD will be designed and will function.

5. Density Determination. Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures.

Step 1. Identify Density Analysis Tiers within the CUP process.

Step 2. Calculate Suitable Area for Development. Calculate the suitable area within each tier by excluding all wetlands, bluffs, or land below the ordinary high water level of public waters.

Step 3. Determine Base Density within the CUP process.

Step 4. Determine if the Site can Accommodate increased Density within the CUP process.

6. Design Criteria. All PUDs must meet the following design criteria.

a. General Design Standards.

- i. All residential planned unit developments must contain at least five dwelling units or sites.
- ii. On-site water supply and sewage treatment systems must be centralized and meet the standards of this ordinance. Sewage treatment systems must meet the setback standards applied in the CUP process.
- iii. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.
- iv. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards as applied in the CUP process.

b. Open Space Requirements.

- i. Open space must constitute at least 50 percent of the total project area and must include:
  - a. Areas with physical characteristics unsuitable for development in their natural state.
  - b. Areas containing significant historic sites or unplatted cemeteries.
- ii. Open space may include:
  - a. Outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public; and
  - b. Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
- iii. Open space shall not include:
  - a. Dwelling units or sites and residential lots; road rights-of-way, or land covered by road surfaces; parking areas, or structures, except water-oriented accessory structures or facilities; and
  - b. Commercial facilities or uses.

c. Open Space Maintenance and Administration Requirements.

- A. Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved and maintained by use of deed restrictions, covenants, permanent easements, public dedication, or other equally effective and permanent means. The instruments must prohibit:

- (1) *Commercial uses (for residential PUD's);*
  - (2) *Vegetation and topographic alterations other than routine maintenance; and*
  - (3) *Construction of additional buildings or storage of vehicles and other materials.*
7. Development organization and functioning. Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owners association with the following features:
- (1) *Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner;*
  - (2) *Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites;*
  - (3) *Assessments must be adjustable to accommodate changing conditions; and*
  - (4) *The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.*
8. Erosion Control and Stormwater Management.
- A. Erosion control plans must be developed and must be consistent with the provisions this ordinance. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.
  - B. Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff.
9. Conversions. The Township may allow existing resorts or other land uses and facilities to be converted to residential PUDs if all of the following standards are met:
- a. Proposed conversions must be evaluated using the same procedures for residential PUDs involving new construction. Inconsistencies between existing features of the development and these standards must be identified;
  - b. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

### **ARTICLE III -ADMINISTRATION**

#### **DIVISION 30 ADMINISTRATION**

**Section 30-010:                      Zoning Administrator**

The entire Town Board shall be responsible for administration and enforcement of these



regulations or may appoint a zoning administrator. The Town Board or zoning administrator shall perform the following duties:

1. Enforce and administer the provisions of this Ordinance;
2. Maintain permanent and current records of this ordinance, including but not limited to maps, amendments, variances and conditional uses;
3. Receive, file, and forward, along with recommendations, all applications for appeals;
4. Ensure compliance with Minn.Stat. 15.99;
5. Institute in the name of the Township, any appropriate actions or proceedings against a violator as provided for; and
6. Any zoning administrator may serve as ex-officio, non-voting member of the Planning Commission.

**Section 30-020: Planning Commission**

**Planning Commission.** The Dunn Town Board of Supervisors, Clerk and Treasurer shall serve as the Planning Commission, which shall consist of seven members. If adopted by the Town Board by separate resolution and in the discretion of the Town Board, the Planning Commission may alternatively include up to five legal voting residents of the township. Any such members of the Planning Commission shall be appointed by the Town Board consistent with the bylaws as adopted by the Dunn Town Board.

- A. The Planning Commission shall elect a Chairperson, Vice-Chairperson and Secretary/Treasurer from among its members. It shall adopt rules or bylaws for the transaction of its business and shall keep a permanent public record of its proceedings, findings and determinations. The Planning Commission shall cause all such records of its proceedings, findings and determinations to be filed at the Dunn Township office.
- B. The Planning Commission shall be advisory in nature, and to the extent appointed, shall serve at the pleasure of the Town Board. In this advisory role the Planning Commission shall:
  1. Assist the Town Board in the formulation of goals, policies and programs for the future development of Dunn Township;
  2. Assist the Town Board in the preparation of development controls designed to promote development consistent with adopted goals and policies; and
  3. Review applications for conditional use permits, variances and Ordinance amendments, conduct public hearings in accordance with the provisions of the Ordinance, and make recommendations to the Town Board.

**Section 30-030 The Board of Adjustment and Appeals**

The Dunn Town Board of Supervisors, Clerk and Treasurer shall serve as the Board of

Adjustment and Appeals, which shall consist of seven members. If adopted by the Town Board by separate resolution and in the discretion of the Town Board, the Board of Adjustment may alternatively include up to five legal voting residents of the township. Any such members of the Board of Adjustment shall be appointed by the Town Board consistent with the bylaws as adopted by the Dunn Town Board. The Board of Adjustment and Appeals shall act upon all questions as they may arise in the administration of this Ordinance.

- A. The Board of Adjustment and Appeals shall elect a Chairperson and Vice-Chairperson from among its members. It shall adopt rules or bylaws, for the transaction of its business and shall keep a permanent record of its proceedings, findings and determinations. The Board of Adjustment and Appeals shall cause all such records of its proceedings, findings and determinations to be filed at the Dunn Township Hall.
- B. The meeting of the Board of Adjustment and Appeals shall be held as specified in the rules or bylaws, and at other such times as the Chairperson of the Board shall deem necessary and appropriate.
- C. The Board of Adjustment and Appeals shall have the exclusive power concerning the following:
  - 1. To grant variances from the strict enforcement of standards and provisions prescribed by this Ordinance. Variances shall only be granted based upon the criteria prescribed in Section 30-040 of this Ordinance;
  - 2. To hear and decide any appeal from an order, requirement, decision or determination made by the Town Board or Zoning Administrator, if any;
  - 3. All decisions by the Board of Adjustment and Appeals in granting variances, or in hearing any appeals from administrative order, requirement, decision or determination shall be final except that any aggrieved person, department, agency, Board or Planning Commission shall have the right to appeal to the Otter Tail County District Court within thirty (30) days after receipt of the notice of the decision made by the Board of Adjustment and Appeals.

**Section 30-040 Variances and Appeals**

- A. The Dunn Board of Adjustment and Appeals shall have the exclusive power to order the issuance of variances from the terms of any official controls including restrictions placed on nonconformities. All such variances shall be granted in accordance with Minn. Stat. Chapter 462. Variances shall only be permitted when the landowner has demonstrated practical difficulties, as defined herein. The Planning Commission shall consider the criteria set forth below when hearing and making recommendation upon a variance request:

Has the applicant demonstrated practical difficulties? (Practical difficulties mean that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

- B. The Planning Commission must make an affirmative finding on all of the criteria listed above in order to make a recommendation to the Board of Adjustment and Appeals to grant a variance. The applicant for a variance has the burden of proof to show that all of the criteria listed above have been satisfied.
- C. The Board of Adjustment may impose conditions upon a variance that relate to the purposes and objectives of this Ordinance. If conditions are imposed, the variance shall not be effective until the conditions are fully complied with. A conditional variance shall be in effect only as long as the condition is complied with. If a condition is not complied with, the variance may be revoked and the Township may pursue the enforcement remedies set forth in Section 30-090.
- D. Procedure for applying for a Variance:
  - 1. An applicant desiring a variance shall fill out and submit to the Dunn Town Board or Zoning Administrator (if any) a completed Variance Request form, copies of which will be made available from the Town Board. The appropriate fee shall be paid in order for the application to receive consideration and shall be nonrefundable. The application shall be accompanied by information as is necessary to educate the residents about the project, including but not limited to:
    - a. A map or aerial photo showing all existing homes, as well as all proposed and existing buildings, driveways, access roads, parking spaces, and loading areas;
    - b. A map or aerial photo indicating location and dimensions of the feedlot, lakes, ponds, water courses, wetlands, drainage ditches, roads, wells (including abandoned wells), contour and surface water drainage within 2,640 feet of the feedlot;
    - c. A site plan drawn to scale showing the location of all proposed landscaping, windbreaks, and screening plans, if applicable, as well as all approaches from public roads, and the existing and proposed buildings and manure storage areas and their square footage;
    - d. A copy of any applications for permits made to any federal, state or local authority for the same project;

- e. The plan for the manner in which odor impact to neighbors will be controlled or mitigated;
  - f. The names and addresses of all owners of the feedlot. This includes the names and addresses of all individual owners of any feedlot corporation, cooperative, partnership, limited liability company, etc...;
  - g. Certification from the County that all property taxes have been paid;
  - h. Such other information as is deemed necessary and reasonable by the Town Board to adequately review the request; and
  - i. Written assurances that any damage to bridges and roads by heavy loads will be repaired by the applicant/permit holder.
2. The Town Board or Zoning Administrator shall make a recommendation, in writing, to the Planning Commission, and forward the request for their review.
  3. The Planning Commission shall hold a public hearing in accordance with Minn. Stat. 462 and the provisions of this Ordinance.
  4. The Planning Commission will forward their recommendation to the Board of Adjustment and Appeals. If it recommends the variance, the Planning Commission may impose conditions (including time limits) it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.
  5. The Board of Adjustment and Appeals will act upon the request from the Planning Commission.
  6. The Board of Adjustment will act upon the request within the time frames established by Minn.Stat. Sec. 15.99, as amended.
  7. An application for a variance shall not be resubmitted for a period of twelve months following denial.
  8. Variances after approval shall be recorded in the office of the Otter Tail County Recorder by the applicant.

E. Procedure for filing an Appeal:

1. An appeal of an administrative decision made in the enforcement of this Ordinance shall be made by filling out and submitting to the Town Board or Zoning Administrator (if any) an Application for Appeal, which will be available from the Town Board. The appropriate fee shall be paid in order for the application to receive consideration by the Board of Adjustment

and Appeals and shall be nonrefundable. Such appeal shall be heard by the Board of Adjustment and Appeals within sixty (60) days of the date that such complete application is submitted.

**Section 30-050**

**Conditional Use Permits.**

Any use listed as a Conditional Use in this Ordinance shall be permitted only upon application to the Board or Zoning Administrator (if any) and upon review and recommendation of the Planning Commission, and approval and issuance of a Conditional Use Permit by the Town Board. The applicant for a conditional use permit shall fill out and submit to the Town Board an Application for Conditional Use Permit, which application shall contain all information required of a variance application. When such permit is completed and submitted, the appropriate fee shall be paid in order for the application to be considered complete and to receive consideration by the Planning Commission and shall be nonrefundable. A site evaluation shall be conducted by 2 or more members of the Town Board prior to consideration of the permit.

- A. In considering the granting of any conditional use permit throughout the Township, the Planning Commission and Town Board shall evaluate the effect of the proposed use upon:
  - 1. The maintenance of the public health, safety and welfare;
  - 2. The location of the site with respect to existing and proposed access roads;
  - 3. Its compatibility with adjacent land uses;
  - 4. Its compatibility with the intent of the zoning district in which such use is proposed; and
  - 5. Its compatibility with the objectives of this Ordinance.
  
- B. Upon consideration of the factors listed above, the Planning Commission may attach such conditions, in addition to those required elsewhere in this Ordinance, which it deems necessary for the furtherance of the purposes set forth in this Ordinance. Such conditions attached to conditional use permits may include any reasonable and prudent requirements necessary to fulfill the purposes and intent of this Ordinance.
  
- C. An applicant for a Conditional Use Permit may be required to furnish the Planning Commission, in addition to the information required for the building or other permit or variance, the following:
  - 1. A plan of the proposed project area showing contours, soil types, ordinary high water level, ground water conditions, bedrock, slope, and vegetative cover;
  - 2. Location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, piers, open spaces and vegetative cover;
  - 3. Plans of buildings, sewage treatment facilities, water supply systems, and arrangements of operations;

4. Specifications for areas of proposed grading, filling, dredging, lagooning, or other topographic alterations; and
  5. Other pertinent information necessary to determine if the proposal meets the requirements and intent of this ordinance.
- D. The Planning Commission and the Town Board, in evaluating each conditional use application, may request the Otter Tail County Soil and Water Conservation District or Natural Resources Conservation Service to make available expert assistance to assist in the evaluation and consideration of such application.
- E. Procedure for applying for a Conditional Use Permit:
1. An applicant desiring a conditional use permit shall fill out and submit to the Town Board a completed Conditional Use Permit Application form, copies of which will be available from the Township. The appropriate fee shall be paid in order for the application to receive consideration and shall be nonrefundable.
  2. The Town Board shall make a recommendation, in writing, to the Planning Commission, and forward the request for their review.
  3. The Planning Commission shall hold a public hearing in accordance with Minn.Stat. 462 and the provisions of this Ordinance.
  4. The Planning Commission will forward their recommendation to the Town Board. If it recommends the conditional use permit, the Planning Commission may impose conditions it considers necessary to protect the public health, safety and welfare.
  5. The Town Board will act upon the request from the Planning Commission. The Township shall comply with the time frames established by Minn.Stat. 15.99, as amended. If it grants the conditional use permit the Town Board may impose conditions (including time limits) it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.
  6. If a time limit or periodic review is included as a condition by which a conditional use permit is granted, the conditional use permit may be reviewed at a public hearing with notice of said hearing published at least ten (10) days prior to the review; it shall be the responsibility of the Town Board to schedule such public hearings and the owner of land having a conditional use permit shall not be required to pay a fee for said review. A waiver from a public hearing for annual review of conditional use permits may be granted at the discretion of the Board.
  7. An application for a conditional use permit shall not be resubmitted for a period of twelve months following denial.

8. The applicant shall record any Conditional Use Permit issued in the office of the Otter Tail County Recorder as per Minnesota statutes.

**Section 30-060                      Amendments.**

The Town Board may adopt amendments to the zoning ordinance from time to time. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the community or changes in conditions of the Township. The Town Board may also adopt an Interim Ordinance from time to time in compliance with the requirements and procedures of Minn.Stat. 462.355, as amended from time to time. The procedure for amendments to this Ordinance shall be as follows:

- A. An amendment may be initiated by a property owner, the Planning Commission or the Town Board. Property owners wishing to initiate an amendment shall fill out an Application for Amendment form. Such application shall be filled out and submitted to the Town Board together with the appropriate fee, which is nonrefundable;
- B. The applicant shall appear before the Planning Commission to answer any questions that Planning Commission members may have concerning the amendment request;
- C. A public hearing on the amendment request shall be conducted by the Planning Commission. The public hearing shall be conducted in accordance with Minn.Stat. 462;
- D. The Planning Commission shall make its recommendation to the Town Board after the proceedings of this public hearing. The applicant shall be notified in writing of the recommendation that shall be forwarded to the Town Board;
- E. The Town Board shall consider the recommendation of the Planning Commission and shall comply with Minn.Stat. 15.99, as amended. The applicant shall be notified in writing of the action of the Town Board;
- F. No application of a property owner for an amendment to the text of the Ordinance or the zoning map shall be considered by the Planning Commission within the one-year period following a denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it; and
- G. Amendments adopted by the Town Board shall be recorded in the office of the Otter Tail County Recorder as per Minnesota statutes.

**Section 30-070                      Reserved for Future Use**

**Section 30-080                      Public Notice and Hearing Requirements.**

- A. In addition to the procedures described in preceding sections of this Ordinance, all conditional use permit requests, variance requests, and requests for amendments shall be reviewed at a public hearing conducted in compliance with Minn.Stat. 462.3595, as amended from time to time, and at least ten (10) days following official public notification including publication in the official newspaper of Dunn Township. Written notification shall be given to all property owners within one-half (1/2) mile of the property or to ten (10) surrounding property owners of record, whichever includes the most property owners.
- B. The Environmental Services Office of Otter Tail County may be sent a notice of all public hearings.

**Section 30-090 Enforcement and Penalties.**

- A. The Town Board or authorized Township representative(s) shall conduct Zoning Ordinance compliance inspections prior to the issuance of permits and during the course of construction of activities under variance. No person shall hinder or otherwise interfere with the Town Board or authorized Township representative(s) in the performance of their duties and responsibilities. Refusal to allow reasonable access shall be deemed a separate and distinct offense, whether or not any other specific violations are cited.
- B. In the event of violation or threatened violation of this Ordinance, the Town Board, in addition to other remedies including prosecution under this Ordinance, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the Dunn Township Attorney to institute such action after approval and authority for such action has been granted by the Dunn Town Board.
- C. This Ordinance is enforced with the imposition of civil and/or criminal penalties provided for under Minnesota law. Utilization of a civil remedy shall not prevent a criminal prosecution for the same violation. A criminal prosecution for a violation shall not be a bar to a civil remedy.
- D. Any person, firm or corporation who shall violate any of the provisions herein, or who shall fail to comply with any of the provisions herein, or who shall make any false statement in any document required to be submitted under such provision, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by such penalties and fines as provided in Minn. Stat. 609.03. Each day that the violation continues shall constitute a separate offense.
- E. Any person damaged as a result of a violation of this Ordinance may pursue appropriate legal remedies in District Court, including but not limited to an injunction, mandamus and administrative remedies in addition to the prosecution of the misdemeanor.



- F. A violation of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity. In the event any land is used or is proposed to be used in such a manner as to be in violation of this Ordinance or in the event any building, structure, alteration thereof or part thereof, is, or is proposed to be used or erected in violation of this Ordinance, the Town Board may issue cease and desist orders to halt the progress of any on-going violation. Once a cease and desist order has been issued, the activity shall not be resumed until the violation is corrected and the cease and desist order is lifted. In addition, the Town Board may institute an injunction, mandamus, abatement, or other appropriate action to prevent, enjoin, correct, abate or remove such unlawful use, construction, reconstruction, alteration or maintenance.

**Section 30-100 Fees.**

- A. In order to defray the administrative costs associated with the processing of applications for variance requests, amendments, and appeals, a schedule of permit fees shall be adopted by the Dunn Town Board. The schedule of fees shall be posted at the Dunn Town Hall, and may be altered or amended by resolution of the Dunn Town Board from time to time as needed. All fees are nonrefundable.
- B. In the event of a violation of this Ordinance, any costs of enforcement, including administrative expense and legal expense incurred in the enforcement proceedings, may be assessed against the party found to have violated the ordinance. Within 45 days after the conclusion of a civil or criminal case, Dunn Township may certify the costs of enforcement for assessment against the violator's property where the violator has either been found to have violated this Ordinance by the Court or has admitted the violation. The Town Clerk shall prepare a bill for the amount certified and mail a copy by certified mail to the violator's last known address or the violator's address of record with the Otter Tail County Auditor's Office. If the total amount of the bill is not paid within thirty days of receipt of mailing, Dunn Township may certify the bill as any other special assessment. The violator may appeal the certification of the costs of enforcement to the Dunn Township Board of Adjustment by filing an objection to the assessment within fifteen days upon receipt of notice of the certification. The appeal must include a detailed explanation for the objection.
- C. Any person making application for a permit after the commencement of work requiring a permit shall be charged an increased permit fee according to the fee schedule. The Planning Commission, Board of Adjustment or the Zoning Administrator may require correction and/or restoration of the concerned property to its original state in the event the application for a permit is denied or the action permitted does not include all or part of the work commenced prior to approval of said permit.

**Section 30-110**

**Adoption and Effective Date.**

**A. Public Hearing Dates: June 12 and 26, 2017**

Adopted by the Dunn Town Board of Supervisors on this 10th day of July 2017.

By: *David Johnson*  
David Johnson, Town Board Chair

By: *Douglas Winter*  
Doug Winter, Town Clerk

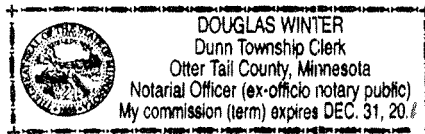
**B. Effective Date: July 10, 2017**

STATE OF MINNESOTA )  
 ) ss  
COUNTY OF OTTER TAIL )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of July 2017, by David Johnson, Chair of the Dunn Township Board.

Subscribed and sworn to before me this 10<sup>th</sup> day of July 2017.

*Douglas Winter*  
Notary Public



STATE OF MINNESOTA )  
 ) ss  
COUNTY OF OTTER TAIL )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of July 2017, by Doug Winter, Clerk of Dunn Township.

Subscribed and sworn to before me this 10<sup>th</sup> day of July 2017.

*Douglas Winter*  
Notary Public

