

Smiley Township

Pennington County, Thief River Falls MN



Zoning

SMILEY TOWNSHIP

ZONING ORDINANCE

August 2018

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SMILEY TOWNSHIP ZONING ORDINANCE

AN ORDINANCE PROVIDING FOR THE ZONING OF THE UNINCORPORATED

AREAS OF SMILEY TOWNSHIP, PENNINGTON COUNTY, MINNESOTA

**THE TOWN BOARD OF THE TOWNSHIP OF
SMILEY ORDAINS AS FOLLOWS:**

ARTICLE I. PURPOSE

The primary purpose of this Ordinance is to insure, promote, and protect the public health, safety, and general welfare of the inhabitants of the Township of Smiley. This will be

accomplished by:

1. Protecting and conserving the character, social, environmental, and economic stability of the Districts; and
2. Preventing undue congestion of population growth and development; and
3. Facilitating adequate and economical provisions for transportation, water supply and sewage disposal, schools, recreation, and other public services; and
4. Coordinating growth and development planning and regulation with the City of Thief River Falls.

ARTICLE II.

DISTRICTS

A. The unincorporated area of the Township is hereby divided into the following Districts:

AR – Agricultural Residential

SR – Suburban Residential

UR – Urban Residential

CM – Commercial

ID – Industrial

FP – Flood Plain

AC – Airport Clearance

PR – Parks and Recreation

UA – Urban Agriculture

B. The Districts above named are hereby established and shown on the map which shall be referred to as the “Official Zoning Map”, and which map is hereby made a part of this Ordinance and copies thereof shall be kept by the Town Clerk and shall be available for public inspection.

C. This Ordinance shall be recorded in the Office of the County Recorder of Pennington County, Minnesota.

D. Changes in the Official Zoning Map shall be made by the Town Clerk at such times as this Ordinance is properly amended as provided herein.

ARTICLE III.

DEFINITIONS

A. Accessory Structure – A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

B. Accessory Use – A use naturally and normally incidental to, subordinate to, and auxiliary to the permitted use of the property.

B.1 Billboards – Any sign or structure used for the purpose of advertising products, locations, services, businesses or other items which exceeds 40 square feet in area.

C. Building/Principal – A building or structure in which is conducted the main or principal use of the lot on which said building or structure is situated.

D. District – Any section of the Township for which the regulations governing the use of buildings and property are uniform.

E. Dwelling – A dwelling is any house or building or portion thereof which is occupied wholly as a home, residence, or sleeping place for one or more human beings, either permanently or transiently. In case of mixed occupancy, where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for the purpose of this Ordinance and shall comply with the provisions thereof relative to dwellings.

F. Dwelling, One Family – A dwelling occupied only by one family, and so designed and arranged as to provide cooking and kitchen accommodations and sanitary facilities for one family, together with such domestic help as

may be necessary to service and maintain the dwelling and its occupants.

G. Dwelling, Two Family – A dwelling so designed and arranged as to provide cooking and kitchen accommodations and sanitary facilities for occupancy by two families.

H. Dwelling, Multiple – A building used or intended to be used as a dwelling, by three or more families or as an apartment house or terrace building.

I. Essential Services – Services, including but not limited to sewer, water, roads, and other public or private infrastructures, which are required to maintain public safety and well-being.

J. Farm – A farm is a parcel of property which is worked for commercial agricultural production as a single, continuous unit of not less than 20 acres in extent.

K. Farm yard – That area of a farm immediately around the farm dwelling where accessory buildings are located and are used in conjunction with general agricultural operations of the farm.

L. Feedlot – A place of confined feeding of livestock or other animals for food, fur, pleasure, or resale purposes in yards, lots, pens, buildings, or other areas not normally

used for pasture or crops and in which substantial amounts of manure or other related wastes may originate by reason of such feeding of animals, or where normal grass and land cover cannot be maintained due to animal use.

L.1 Feedlot, Large – Any feedlot containing 300 or more animal units as defined by State of Minnesota feedlot regulations or any feedlot containing more than 300 beef cattle of any size, 225 dairy cattle of any size, 750 hogs over 55 pounds each, 16,200 turkeys of any size, or 30,000 chickens of any size.

L.2 Feedlot, Small – Any feedlot containing more than 100 animals units as defined by State of Minnesota feedlot regulations or less than 300 animal units as defined in Subsection 16.

L.3 Feedlot, Large Animal – Any feedlot or location housing large animals such as cattle, horses, buffalo, elk, lamas, hogs, sheep, ostriches.

M. Home Occupation – Any occupation or profession carried on by a member of a family residing on the property and meeting the following conditions:

a. No sign shall be used other than one non-illuminated name plate measuring not more than ten square feet in area; and

b. No person shall be employed for commercial purposes other than a member of the immediate family residing on the property.

N. Junk Yard – A place maintained for keeping, storing, or piling in commercial quantities, motor vehicles, machinery, and/or parts thereof, or other metal, or articles which from its worn condition render it practically useless for the purpose for which it was made and which is commonly classed as junk. This shall include a lot or a yard for the keeping of unlicensed motor vehicles or the remains thereof, for the purpose of dismantling, sale of parts, sale of scraps, storage, or abandonment. This shall not prohibit the keeping of inoperable unlicensed motor vehicles: within a garage or behind a structure or well away from the road in all Districts. Farm trucks and implements within the Agricultural Districts are exempt from this Section.

N.1 Kennel – Any residence, facility, property, or building which provides for the care of ten or more dogs.

N.2 Game Preserve – Any facility or property used for commercial raising and/or hunting of non-domestic animals.

O. Lot – A lot is any piece or parcel of property occupied, or to be occupied, by a building or structure, or by other activity permitted thereon and including the open space as

required under this Ordinance. A lot need not be a lot existing of record.

P. Manufactured Home – A structure, not affixed to or part of property, transportable in one or more sections, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and/or electrical systems contained in it.

Q. Manufactured Home Park – Any site, lot, field, or tract of property 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.

1. Planning Commission – A planning commission shall be established consisting of three to five members which may include Township Officials. The Town Board may appoint the Town Board as the planning commission.

S. Platted – Any site surveyed by a registered land surveyor and presented in a form which meets the requirements to be recorded with the Pennington County Recorder as a legal plat.

S.1 Racing – An unorganized or organized event which involves repeatedly determining, practicing, or testing the performance of a motor vehicle in relationship to other vehicles or in relationship to measured periods of time or speed.

S.2 Racetrack – An improved site used for the purpose of racing repeatedly at a specific location.

T. Structure – Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

U. Structure Alteration – Any changes in the supporting members of a structure, such as bearing walls, columns, beams, or girders or any substantial change in the roof or exterior walls.

V. Waterfront – Property adjoining water, either a river or a lake, or within 300 feet thereof.

W. Zoning Map – The areas comprising the Zoning Districts and boundaries of said Districts, as shown upon the maps attached hereto and made a part of this Ordinance, being designated as Township of Smiley Official Zoning Map, with all proper notations, references, and other information shown thereon.

ARTICLE IV.

GENERAL

REGULATIONS

The following regulations in this Section shall apply to all Districts:

SECTION 1.

Compliance Required.

No property, building, structure, or a part thereof may be erected, altered, constructed, reconstructed, maintained, used, or occupied except in conformity with the provisions of this Ordinance.

SECTION 2. Approval of Plats.

A. No new construction which involves the subdivision of existing parcels shall be approved unless the lots within such plats shall be equal to, or exceed the minimum size and width as required for the District in which the property is located, and unless the plat fully conforms with the statutes of the State of Minnesota, and any ordinances of Pennington County, Minnesota, as adopted by the Pennington County Board of Commissioners.

B. No proposed plat of any construction shall be approved unless it meets the following conditions:

1. The construction is not within the 100 year floodplain as outlined in the Federal Emergency Management Agency Flood Insurance Rate Map for the Township;
2. Construction is within the setbacks for appropriate District;
3. The drain field or septic tank is located at least 50 feet from any boundary line or 100 feet from any existing well; and
4. Septic system design and placement meets all state and county requirements.

SECTION 3. Buildings under Construction.

A. Any buildings or structures, the construction of the whole or a part of which has been started prior to the effective date of this Ordinance, may be completed.

B. New or Existing Driveways.

Paving or resurfacing a new or existing driveway will not require a permit.

SECTION 4. Essential

Services.

Essential services shall be permitted in all Districts as authorized and regulated by law and other ordinances, it being the intention hereof to exempt such essential services from the application of this Ordinance.

SECTION 5. Excavating of Mineral Material.

A. The use of property for the excavation for commercial purposes of mineral material or removal of topsoil, sand, or gravel is not permitted in any District, except by the granting of a permit by the Town Board, Town Board Chairman, or Town Clerk. The Town Board shall establish an application for the permit. In no case shall excavation be allowed in a Residential District. No public hearing shall be required for a permit for such purpose as outlined under this Section. The sole purpose of the permit under this Section is to allow the Town Board to set those conditions necessary for the preservation of the public health, welfare, and safety by setting such conditions as to guarantee proper management of those areas used for the purposes outlined in this Section. Subject to the approval of the Town Board, any land from which any deposits have been removed shall be leveled and prepared

for original use as close as practicable, after the removal of the material. This Section shall take precedence over any conflicting Sections of this Ordinance. The Town Board shall have the right to establish and amend conditions from time to time.

B. Applications for a permit shall be acted upon within 30 days from the date of receipt of the complete application or the application shall be deemed approved subject to the terms and conditions contained herein.

Permits shall be effective for a period of one year from the date granted. Permits shall automatically renew upon the payment of the permit fee if paid prior to the expiration of the permit. The Town Board, Town Board Chairman, or Town Clerk can refuse to automatically renew a permit if the permit holder has violated any terms or conditions of this Ordinance.

C. Conditions for Permit Holder for Excavating of Mineral Material. The following conditions must be followed when removing sand and gravel pursuant to a permit issued by the Town Board:

1. Reclamation. All property used for excavation of sand and gravel shall be reclaimed. The owner of the property at the time the sand and gravel are excavated shall be responsible for the reclamation. Top soil

shall be preserved. The property from which the sand and gravel have been removed shall be leveled and prepared for original use as close to practicable, incorporating use of all top soils that were removed and stored. The reclamation shall start once three acres have been excavated or excavation ceases, whichever is the first to occur. The property shall be re-seeded with a cover grass as recommended by the Town Board or the Pennington County Extension Office. Reclamation shall be completed within three years of the required reclamation starting time.

2. Weeds. Weed and brush growth shall not be allowed in areas that are being prepared for excavation or are being excavated.

3. Access. Ingress and egress from the area being excavated shall be over the most direct route to a hard surfaced (blacktop, concrete, or other similar material) road unless directed by the Town Board. All roads shall be watered down to reduce dust.

4. Roads. All roads that are used to haul the sand and gravel shall be maintained to allow normal traffic to freely use the roads. These roads shall also be watered with calcium chloride or other material as approved by the Town Board to reduce dust. Upon completion of the hauling, or at the direction of the Town

Board, all roads must be immediately returned to the condition that existed prior to the start of the hauling or to a condition agreed upon with the Town Board. The Town Board shall have the right to direct the permit holder in maintenance of roads if the permit holder does not maintain the roads in a satisfactory condition.

5. Water. The removal of sand and gravel shall take into consideration the water table, surrounding water uses, and all state and federal requirements concerning ground water. The removal of sand and gravel shall not contaminate ground water and shall not prevent any surrounding uses from using ground source water.

6. Crusher. A crusher may be operated within the permit area. The crusher shall not be placed within 100 feet of the boundary of the permit area. The hours of operation of the crusher shall be the same as the hours of operation of the sand and gravel pit, however, the Town Board, Town Board Chairman, or Town Clerk may reduce those hours of operation depending on location and other pertinent factors.

7. Hours. Operation of a sand and gravel pit, with related uses, shall be restricted to the hours of 6:00 A.M. to 10:00 P.M.

8. Violation. Violation of any of these

conditions shall be considered a violation pursuant to Article XII, Section 9 of this Ordinance. The Town Board shall also have the right to suspend a permit for violation of these conditions. Within ten days of suspension of a permit, the permit holder shall have the right to request a hearing before the Town Board. The request shall be in writing, shall be mailed by certified mail, return receipt requested, to the Town Clerk, and the hearing shall be held within 30 days of the receipt of the request by the Town Clerk and the Town Board shall make a decision within ten days of the hearing. Prior to the decision, the excavation of sand and gravel shall stop. In hearing an appeal, the Town Board shall have the right to allow the permit holder to continue while insuring that these conditions will be met or it shall have the right to revoke the permit, or it shall have the right to modify the permit.

9. Permit Fee. The Town Board shall have the right to establish a fee for a permit to remove sand, gravel, or mineral material by resolution, which resolution may be amended from time to time.

10. Exception. Property owners shall be allowed to excavate up to 500 yards of sand or gravel per year from their own property for their own personal use without complying with the conditions set forth above.

SECTION 6. Fences.

No fence, wall structure, planting, or obstruction shall be permitted over three feet in height within 100 feet of any corner of any road, highway, or street right-of-way in order to insure traffic visibility across the corner. This is not to include wire fence which does not obstruct visibility.

SECTION 7. Dumping and Disposal of Rubbish.

A. The use of property for the dumping or disposal of solid waste, hazardous waste, or nuclear waste is not permitted except as outlined under Industrial Districts or as set forth in Article IV., Section 7.B.

B. Land Treatment of Petroleum Contaminated Soil. The use of the property for land treatment of petroleum contaminated soil is permitted should a permit from the State of Minnesota be obtained for land treatment of petroleum contaminated soil and should a permit from the Town Board for land treatment of petroleum contaminated soil also be obtained. Any property used for treatment of petroleum contaminated soil shall comply with all state and federal regulations.

Both the property owner and person obtaining the permit shall be fully responsible for complying with all state and federal regulations.

SECTION 8. Junkyard Maintenance.

A. The use of property as a junk yard as defined within this Ordinance shall require a conditional use permit wherever situated.

Unless the Town Board finds that it is injurious to the health, welfare, and safety of the individuals, the junkyards in existence at the effective date of this Ordinance, may continue in service by obtaining this conditional use permit. The permit will be granted upon showing that the junkyard operation is not expanded nor enlarged in scope. Such permits shall be subject to review and revocation if there is any evidence of enlargement or expansion of the junkyard operation. The fee for a conditional use permit for the junkyards in existence at the time of this Ordinance shall be set by the Town Board by resolution, which resolution may be amended from time to time.

B. All junkyards established after the effective date of this Ordinance, shall be screened from roads and developed areas with a solid site obscuring fence or wall 8 feet or more in height, which shall be maintained in good

condition. No junkyards shall be established closer than 1,000 feet from any federal or state roads or closer than 500 feet from any other road, county ditch, Township ditch, or waterway.

SECTION 9. Sanitary Provisions.

Unless sewers are constructed or in operation, all sewage facilities shall be connected to approved septic tanks and disposal fields meeting at least the minimum standards set forth by the County of Pennington and the State of Minnesota. This provision shall not apply to temporary construction sites or portable units used in farming operation. When sewers are available, all connections shall be to the sewer system.

SECTION 10. Lagoons.

Lagoons for the treating of animal wastes or products of public wastewater systems shall be at least 2,000 feet from any dwelling, except that of the owner.

SECTION 11. Feedlots and Kennels.

A. Permits

1. Large Feedlots (300 + animal units) or any feedlot with liquid manure storage shall apply for a conditional use permit prior to establishment.

2. Small Feedlots (100 to 300 animal units) shall apply for a conditional use permit if located within 1,000 feet of a residential dwelling or a zoning permit with Town Board review in any other location.

3. Permit applications for feedlots and kennels shall consider provisions for odor management, air quality management, landscaping, natural barriers, buffers, or other means of maintaining separation between residential and agricultural uses in order to operate as a good neighbor.

4. Kennels (10 to 100 animals of any kind) shall apply for a zoning permit with Town Board review if located within 500 feet of a residential dwelling. Large Animal Feedlots (see definition of Large Animal Feedlot verses Large Feedlot) shall apply for a zoning permit with Town Board review if located within 1,000 feet of any residential dwelling.

5. Residential Uses – Residential uses must secure a conditional use permit if located within 1,000 feet of a large or small feedlot. Zoning permit applications for residential uses in agricultural districts shall consider provisions for landscaping, natural barriers,

buffers, or other means of maintaining separation between residential and agricultural uses in order to operate as a good neighbor.

6. The Township Board may modify permit fees, conditional use permit requirements, setback requirements, or other feedlot related provisions of the ordinance to encourage the use of methane digesters, bio-filters, or other proven odor reducing technologies.

Consideration of such modifications shall be done through the use of the zoning permit process with review by both the Town Board and the Pennington County Feedlot Officer.

B. Setbacks – Feedlots must be a minimum of 1000 feet and kennels must be a minimum of 500 feet from any residential dwelling, and residential dwellings must be a minimum of 1000 feet from any feedlot or 500 feet from any kennel, with the exceptions of the owner. This requirement shall not apply where a written waiver is obtained by the feedlot operator or residential dweller.

C. Requirements – Conditional use permits for all Feedlots shall include manure, rodent control, and appearance plans which address current best management practices as established by the Minnesota Department of Agriculture.

D. Air Quality – All feedlots and kennels shall

meet air quality standards as established by the Minnesota Pollution Control Agency.

E. Air Quality Determinations

1. Township residents or the Pennington County Feedlot Officer may request that the Township Board make an air quality determination if there is adequate evidence to suggest air quality standards are not being met by a feedlot or kennel.

2. If the Township Board determines testing is warranted, the Board shall define and implement appropriate air quality testing procedures.

3. If the Township Board determines the air quality testing establishes a violation of air quality standards, the owner shall be required to establish and implement an air quality management plan.

4. The feedlot/kennel owner or township residents may request additional Township approved testing for Township consideration of an air quality violation, but will be responsible for any additional costs. When the Township approves any testing, and a violation of air quality standards is established, the feedlot/kennel owner shall be responsible for the costs of the testing.

5. If the air quality management plan is not

established and implemented within a 60 day time period or if the odor management plan fails to prevent additional violations of air quality standards within a 180 day time period, the property owner shall be considered in violation of this ordinance.

F. Other Permits – All feedlots and kennels shall obtain State and Federal permits prior to final site approval by the Town Board. Applicants for a Township Permit related to feedlots or kennels must contact the Pennington County Feedlot Officer prior to starting the Township permitting process. The Township feedlot permitting process shall be operated in conjunction with the Pennington County feedlot permitting process and no Township feedlot permit may be issued, modified, or acted upon without review and comment from the Pennington County Feedlot Officer.

SECTION 12.

Racetracks and Racing.

A. All racetracks shall be considered a conditional use and must be located in an Industrial Zone.

B. Repeatedly racing at an improved or unimproved site which exceeds any of the

following conditions shall be considered a racetrack:

1. Involves three or more motor vehicles.
2. Operates before 10:00 am or after 3:00 pm.
3. Operates with any number of motor vehicles before 8:00 am or after 8:00 pm.
4. Operates with any number of motor vehicles on a continuous basis for 2 or more hours in a 24 hour period.
5. Operates for a commercial purpose

C. No racetrack shall be permitted within 1,000 feet of any dwelling.

SECTION 13. Signs and Billboards.

A. The purpose of this Section is to protect, insure, maintain, and regain the natural and scenic beauty and attractiveness of the Township and to insure public safety. Signs are recognized as accessory uses and are permitted in all Districts, subject to the regulations of this Ordinance.

B. No sign is allowed that is a hazard to the public health, safety, convenience, welfare, or that prevents ingress or egress from any door, window, or fire escape that tends to

accumulate debris as a fire hazard, or that is attached to a standpipe or fire escape.

C. Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices. No sign shall be placed so as to obstruct or interfere with traffic visibility or traffic control.

D. Private signs are prohibited within the public right-of-way of any street or easement.

E. All signs on state and federal highway right-of-ways shall conform to state and federal sign regulations.

F. The following signs are permitted in all districts without a zoning permit subject to the specific standards indicated.

1. Signs over show windows or doors of a non-conforming business establishment, announcing without display or elaboration, only the name and occupation of the proprietor, and not to exceed 40 square feet in area, four feet in height, or ten feet in length.

2. Real estate signs not to exceed 16 square feet in area which advertise the sale, rental, or lease of the property upon which the sign is temporarily located.

3. Name, occupation and warning signs not to exceed 16 square feet in area located on the

property.

4. Memorial signs, tablets, and names of buildings and date of erection, when cut into any masonry surface or when constructed of metal and affixed flat against a structure.

5. Official signs such as traffic control, parking regulations, information, and notices.

6. Construction signs not exceeding 32 square feet in area shall be allowed in all Districts during construction. Such signs shall be removed when the project is completed.

7. Temporary signs or banners when authorized by the Town Board.

8. Temporary signs for the advertisement of rummage, yard sales, or community events which do not exceed 3 square feet in area and which are not displayed for more the 5 days in any 30 day period.

9. Political signs of any size provided the sign is removed 10 days after the election.

10. All other signs shall require a conditional use permit.

G. Any sign which exceeds 40 square feet in area or which features lighting or changeable content shall be defined as a billboard and shall be considered a conditional use in all

districts.

1. No billboard shall exceed 300 square feet in area, 20 feet in length, 15 feet in height, or 32 feet in height.

2. No billboard shall exceed 150 square feet in area or 20 feet in height where the posted speed limit is below 55 miles per hour.

3. No billboard shall exceed 75 square feet in area or 16 feet in height if located within a high density residential development or where the posted speed limit is below 45 miles per hour.

4. Billboards located off-site from the advertised purpose of the billboard shall be separated by 500 feet.

H. Signs lawfully existing at the time of the adoption of this Ordinance may be continued although the use, size, or location does not conform to the provisions of this Ordinance. However, it shall be deemed a non-conforming use.

I. Sign Maintenance.

1. Painting. The owner of any sign shall be required to have such sign properly painted as needed, including all parts and supports of the sign, unless such parts or supports are galvanized or otherwise treated to prevent rust.

2. Area Around Sign. The owner, or lessee of any sign, or the owner of the property on which the sign is located shall keep the grass, weeds, or other growth cut and the area free from refuse between the sign and the street and also for a distance of six feet behind and at the ends of said sign.

J. Any sign which no longer advertises a bona fide business conducted or a product sold shall be taken down and removed by the owner, agent, or person having the beneficial use of the building or property upon which the sign may be found within ten days after written notice from the Town Clerk.

K. Any sign which becomes structurally unsafe, or endangers the safety of a building or property, or endangers the public safety, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure, or property upon which the sign is located within ten days after written notification from the Town Clerk.

SECTION 14. Buffer.

All commercial and industrial uses abutting Agricultural or residential districts shall be required to effectively buffer their facilities. A buffer shall not be required for that part of a commercial zoning district which fronts a roadway. Setbacks may be a part of the

required buffer distance.

A. Size

Buffers shall be fifty feet wide. The full width shall be landscaped and shall not include roadway, parking, structures or signs.

B. Design

Buffers shall include a sight-obscuring fence at least six feet high or plantings of sufficient comparable height and of sufficient density to provide year round screening.

C. Approval

Before a land use permit may be issued, the Town Board shall approve the buffer proposal.

D. Care of Buffer Area

It shall be the duty of the land owner and occupant to properly care for the buffer area. All fences shall be kept in repair and all landscaping shall be maintained so as to prevent harmful health and safety conditions and unsightly appearance.

SECTION 15. Explosives.

No activities involving the storage, utilization, or manufacture of materials or products such

as TNT or dynamite which could decompose or detonate shall be permitted except as are specifically licensed by the governing body.

SECTION 16. Bulk Storage (Liquid).

All uses associated with the bulk storage of more than ten thousand gallons of oil, gasoline, liquid fertilizer, chemicals, and similar liquids shall require a conditional use permit in order that the governing body may have assurance that fire, explosion, or water or soil contamination hazards (that would be detrimental to the public health, safety, and general welfare).

The governing body may require the development of diking around said tanks which shall hold a leakable capacity equal to one hundred fifteen percent of the tank capacity. Any existing storage tank that, in the opinion of the governing body, constitutes a hazard to the public safety shall discontinue operations within five years following enactment of this Ordinance.

SECTION 17. Dwelling Units Prohibited.

No basement, garage, tent, cargo trailer, or accessory building shall at any time be used as

a dwelling unless they meet the required sanitary and safety standards and it is approved by the Town Board.

SECTION 18.

Shoreland Setbacks.

All zoning districts shall require a shoreland setback as established by the Pennington County shoreland and Floodplain ordinances. Applicants for a Township Zoning Permit in any location adjacent to a shoreland or floodplain area, as determined by the Town Clerk, shall apply to the Pennington County Soil and Water Conservation District for a shoreland determination and/or permit. Evidence of the Pennington County Soil and Water Conservation District action must be presented to the Town Clerk prior to final approval of any Township zoning application.

ARTICLE V. AR – AGRICULTURAL RESIDENTIAL DISTRICT

SECTION 1. Purpose.

Agricultural/Residential areas are established

for the purpose of maintaining and enhancing the use of property for commercial agricultural purposes while providing an enhanced rural lifestyle atmosphere for all residents.

SECTION 2. Permitted Uses.

The following uses shall be permitted:

- A. Agriculture and general farming, including the raising of livestock (subject to feedlot restrictions) and poultry, dairying, horticulture, farm forestry, and similar agricultural enterprises;
- B. Dwelling for farm employees, within an existing farmyard or other site used primarily for farm purposes, including usual and customary accessory farm buildings;
- C. Truck gardens and nurseries;
- D. Publicly owned outdoor recreational areas, including boat access beaches, play fields, and similar areas;
- E. Public utility buildings, such as substations, transformer stations, and regulator stations without service or storage yards;
- F. Public, parochial, private, and nursery schools, churches, and community buildings;

G. One temporary building for the sale of the produce of any of the above uses, located not less than 20 feet from the street or highway right-of-way line, and provided that space for patron parking 20 feet from said street or highway right-of-way line is provided;

H. Cemeteries, including animal cemeteries;

I. Home occupations;

J. Raising of fur-bearing animals or kennels provided no cage or pen housing such animals is located nearer than 200 feet to any lot line;

K. Two one family dwellings per section, provided each dwelling is located on at least a four acre lot.

L. Small feedlots and kennels

M. Home owner logging which does not involve employed labor.

N. Manufactured or mobile homes will be permitted, but must meet Minnesota Statutes: Section 327.31 – 327.34 and be approved by the Town Board.

SECTION 3.

Conditional Uses.

Uses requiring conditional use permits:

A. More than two one family dwellings per section, provided each dwelling is located on at least a four acre site.

B. Two family dwellings provided such dwellings are located on at least a four acre site.

C. Higher Density Subdivisions with smaller lot sizes in an area platted to provide adequate space for individual, or group water and sewer, and which are compatible with agriculture. A preliminary sketch of the proposed plats shall be submitted to the Town Board for approval prior to surveying of the property. The final plat shall be submitted to the Town Board following approval of the preliminary sketch. The final plat shall be in such form that it meets requirements to be recorded with the Pennington County Recorder. Design of higher density subdivisions should use suburban district standards as a guideline.

D. Bed and Breakfasts which: 1. are located on at least a four acre site; 2. provide lodging for no more than eight persons at one time; 3. meet all applicable state regulations;

E. Lagoons or other public sewage disposal system;

F. Public and private recreation facilities and trails for the use of the general public, commercial purposes, or regularly scheduled

events;

G. Commercial or industrial permitted uses which employ no more than four persons, are located on at least a four acre site, which show no evidence of conflicting land use, and where the owner and Township agree in writing to one of the following conditions:

1. The commercial or industrial use will never expand beyond four employees at the present location; or

2. The existing location of the commercial or industrial use is suitable for re-zoning to commercial or industrial in the event over four employees are needed;

H. Excavation of materials;

I. Commercial radio, telephone, television, or other communication towers and transmitters;

J. Large feedlots;

K. Any tower or facility for the purpose of generating electricity through the use of wind energy.

L. Petroleum or asphalt refining or manufacturing.

M. Commercial logging.

N. Game Preserves.

SECTION 4.

Performance Standards.

A. Unless located in a high density subdivision, each dwelling must be: located on at least a four acre lot, be at least 20 feet wide, have 200 feet frontage on an existing road, and be located entirely within a quarter-quarter section on a separately owned parcel.

B. Yard Requirements:

	One Family	Two Family	Accessory Buildings	All Other Uses
Lot Area (min sq. footage)	4 acres	4 acres		4 acres
Lot Frontage	300	300		300
Lot Length	300	300		300
Front Yard Setback	25	25	25	25
Rear Yard Setback	35	35	25	25
Side Yard Setback	25	25	25	25

Shoreland Setback	DNR	DNR	DNR	DNR
Dwelling (min sq. footage/unit)	900	900		
Maximum sq. footage of Accessory Buildings				
Minimum Width	20	20		
Maximum Height	30	30	20	30

C. Road Setbacks

Required setback distance from Road centerline:

State Highway 150

County Road 100

Local Street 100

Frontage Road 70

ARTICLE VI. SR – SUBURBAN

RESIDENTIAL DISTRICT

SECTION 1. Purpose

The Suburban Residential District is intended to provide an option for placing homes in higher density sub-divisions where it is impractical or undesirable to provide full City services to residents and a high quality living environment can be established by using innovative infrastructure systems, lot designs, street layouts, landscaping, and zoning district placement.

SECTION 2. The following uses shall be permitted:

- A. One family or two family dwellings in a platted sub-division.

- B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon completion or abandonment of such construction work.

- C. Up to 3 accessory buildings, structures or uses customarily incidental to any of the uses listed in this section when located on the same property.

D. Public utility buildings, such as substations, transformer stations and regulator stations without service or storage yards, subject to approval of the Town Board in consideration of public health, safety and morals.

E. Home occupations employing family members.

SECTION 3. Uses Requiring Conditional Use Permits.

A. One or two family dwellings in a non-platted area.

B. Home Occupations employing non-family members.

C. Over 3 accessory buildings, structures or uses customarily incidental to any of the uses listed in this section when located on the same property.

D. Neighborhood business including barber shops, beauty shops, and convenience stores provided they are an arranged and harmonious part of a residential neighborhood and are located on identified arterial or collector streets.

E. Trails and other recreational facilities for the use of the general public, commercial

purposes, or regularly scheduled events.

SECTION 4. Performance Standards.

A. Lot size and design must show evidence of adequate space to accommodate individual or group septic systems, well/water supplies, and minimum home design.

B. All requirements of Pennington County Septic System Ordinances as applicable to rural county areas.

C. Road Setbacks

Required setback distance from Road centerline:

State Highway 150

County Road 100

Local Street 100

Frontage Road 70

D. All construction on new building sites must be completed in an area platted for water, sewer, and streets or in an area designed in a manner which would not prevent future platting for higher density development. A

preliminary sketch of the proposed plats or design shall be submitted to the Town Board for approval prior to surveying of the property. The final plat or design shall be submitted to the Town Board following approval of the preliminary sketch. Both the preliminary sketch and final plat or design shall be reviewed by the Thief River Falls Planning Commission prior to final approval by the Town Board if the plat or design falls within the two mile boundary. A final plat shall be in such form that it meets requirements to be recorded with the Pennington County Recorder

E. Yard Requirements for Platted Sub-divisions:

	One Family	Two Family	Accessory Buildings	All Other Uses
Lot Area (min sq. footage)	9,000	12,000		14,000
Lot Frontage	100	100		100
Lot Length	300	300		300
Front Yard Setback	25	25	25	25
Rear Yard Setback	35	35	25	35

Side Yard Setback	15	15	25	5
Shoreland Setback	DNR	DNR	DNR	DNR
Dwelling (min sq. footage/unit)	1,100	950		
Maximum sq. footage of Accessory Buildings	1,500	1,500		
Minimum Width	20	20		
Maximum Height	30	30	20	30

F. Yard Requirements for Non-platted areas:

	One Family	Two Family	Accessory Buildings	All Other Uses
Lot Area (min sq. footage)	4 Acres	4 Acres		4 Acres
Lot Frontage	300	300		300
Lot Length	300	300		300
Front Yard	25	25	25	25

Setback				
Rear Yard Setback	35	35	25	25
Side Yard Setback	25	25	25	25
Shoreland Setback	DNR	DNR	DNR	DNR
Dwelling (min sq. footage/unit)	900	900		
Maximum sq. footage of Accessory Buildings	1,500	1,500		
Minimum Width	20	20		
Maximum Height	30	30	20	30

ARTICLE VII. CM – COMMERCIAL DISTRICT

SECTION 1. Purpose.

The purpose of the Commercial District is to allow for areas of concentrated retail and

commercial operation to serve the existing population with a minimum impact on surrounding Districts.

SECTION 2. Permitted Uses. The following uses shall be permitted:

- A. Restaurants, including drive-ins;
- B. Gasoline service stations and commercial garages;
- C. Automobile, truck, boat, and trailer sales and service establishments;
- D. Motels and motor courts;
- E. Bowling alleys and miniature golf courses;
- F. Personal service shops, such as barber and beauty shops, shoe repair shops, laundry and dry cleaning pickup establishments, and other similar uses;
- G. Medical and animal clinics;
- H. Dwelling when included as an integral part of the principal building to be occupied by the owner or the owner's employee;
- I. Accessory buildings or structures and uses customarily incidental to any of the above listed uses when located on the same property;

J. Food services, including grocery stores, meat markets, supermarkets, restaurants, delicatessens, fruit markets, and other similar uses;

K. Equipment service shops, including radio and television shops, electrical appliance shops, show room of a plumber, decorator, or similar trade, or farm equipment;

L. Hotels, motels, private clubs, private lodges, wholesale establishments, taverns and night clubs, trade schools, commercial parking garages, sales rooms, public transportation terminals, public utility buildings, and transformer stations without storage yards;

M. Recreation services, including theaters, bowling alleys, pool and billiard rooms, dancing academies, and roller and ice skating rinks;

N. Any commercial establishments or professional services or commercial services not specifically stated or implied elsewhere in this Ordinance;

O. Buildings and uses customarily necessary to any of the above permitted areas or uses, but which will not be detrimental either by reason of odor, smoke, noise, or vibration to the surrounding neighborhood; and

P. Bakery for sale on premises only.

SECTION 3.

Conditional Uses.

Uses requiring conditional use permits:

- A. Non-owner occupied dwellings; and
- B. Adult entertainment.
- C. Lot size less than 4 acres with a Conditional Use Permit.

SECTION 4.

Performance Standards.

A. Any Commercial District shall be surveyed and platted prior to the designation of a Commercial District. A preliminary sketch of the proposed District shall be submitted to the Town Board for approval prior to surveying of the property. The final plat shall be submitted to the Town Board following approval of the preliminary sketch. The preliminary and final plats shall be reviewed by the Thief River Falls Planning Commission if the plat falls within the two mile boundary. The final plat plan shall be in such form that it meets requirements to be recorded with the Pennington County Recorder.

Final platting of a Commercial District may be

delayed during a pre-construction phase upon Town Board Approval of a preliminary sketch and a site development agreement which outlines property owner improvements within the boundaries of the preliminary sketch.

B. Lot size for construction of commercial buildings shall be a minimum of four acres.

C. Road Setbacks

Required setback distance from Road centerline:

State Highway 150

County Road 100

Local Street 100

Frontage Road 70

ARTICLE VIII. ID – INDUSTRIAL DISTRICT

SECTION 1. Purpose.

The purpose of the Industrial District is to provide areas for industrial uses that may be located relatively close to non-industrial Districts with a minimum impact on those

Districts and to restrict industries which pose problems of air pollution, noise, and vibration.

SECTION 2. Permitted Uses.

The following uses shall be permitted:

- A. Building materials storage yards;
- B. Contractors equipment rental or storage yards;
- C. Fuel yards provided they meet all state and federal standards;
- D. Public utility service buildings and yards and electric transformer stations and substations;
- E. Any wholesale business, including warehousing and storage buildings, commercial laundries, and dry cleaning plants;
- F. Manufacturing, compounding, or treatment of such products as bakery goods, candy, cosmetics, dairy products, food products, drugs, perfumes, pharmaceutical, and toiletries;
- G. Manufacturing, compounding, or treatment of such articles or merchandise from the following previously prepared materials which have been manufactured elsewhere: bone, cellophane, canvas, cloth, cork, feathers, felt,

fiber, fur, glass, hair, leather, paper, plastics, precious or semi-precious metals or stones, shells, textiles, tobacco, wood (excluding planing mills) yards, and paint, not employing a boiling process; and

H. Any kind of manufacturing process or treatment of products using light machinery such as tool and die shops and metal fabricating plants.

SECTION 3. Conditional Uses.

Uses requiring conditional use permits:

A. Manufacturing of cement, lime, gypsum, or plaster;

B. Distillation of bone, coal, tar, petroleum, refuse, grain, or wood;

C. Explosive manufacture or storage;

D. Commercial fertilizer manufacturing, compost, or storage;

E. Glue manufacturing, size or gelatin manufacturing where the processes include the refining or recovery of products from animal refuse or offal;

F. Livestock feeding yards, slaughtering of animals, or stockyards;

- G. Petroleum or asphalt refining or manufacturing;
- H. Smelting or refining of metals from ores;
- I. Steam and board hammers and forging presses;
- J. Storing, curing, and tanning of raw, green, or salted hides or skins;
- K. Sulphurous, sulfuric, nitric, picric, carbolic or hydrochloric, or other corrosive acid manufacturing and/or bulk storage thereof;
- L. Quarrying and crushing of rock and other minerals;
- M. Junkyards provided they meet the conditions of Article IV., Section 8, Subdivision B;
- N. Dumping sites provided the following conditions are met:
 - 1. No materials are allowed which are classified as solid waste, hazardous waste, or nuclear waste by current state and federal definitions; or for which there are any county, state, or federal limitations on dumping which cannot be met by the provisions of this Ordinance;
 - 2. A professional engineering study is completed to determine the environmental

risk to the water supply, the study shall be at the cost of the applicant;

3. The defined dumping site is fenced and secured in a manner which will prevent unauthorized entry, the construction will be completed at the cost of the applicant;

4. Any dumping at the site is supervised by a Township official, or designated person, at a per hour cost to be paid by the site operator; and

5. Any truck or vehicle hauling to a dump site upon the roads in the Township must be totally enclosed and covered;

O. Any tower or facility for the purpose of generating electricity; and

P. Racetracks;

Q. Any lawful use of land or structure not herein expressly prohibited or provided for and which by its nature does not through noise, dirt, soot, offensive odors, or unsanitary conditions constitute either a public or private nuisance.

SECTION 4.

Performance Standards.

A. Any Industrial District must be surveyed and platted prior to the designation of an Industrial District. A preliminary sketch of the proposed District shall be submitted to the Town Board for approval prior to surveying of the property. The final plat shall be submitted to the Town Board following approval of the preliminary sketch. The preliminary and final plats shall be reviewed by the Thief River Falls Planning Commission if the plat falls within the two mile boundary. The final plat plan shall be in such form that it meets requirements to be recorded with the Pennington County Recorder.

Final platting of a Commercial District during a pre-development period may be delayed upon Town Board Approval of a preliminary sketch and a site development agreement which outlines property owner improvements within the boundaries of the preliminary sketch.

B. Lot size for construction of industrial buildings shall be a minimum of four acres.

C. The Industrial Districts outside the two mile boundary from Thief River Falls shall not be allowed within one-half mile of a Residential District or an area used for a cemetery or church. An area zoned Industrial shall not have to amend its zoning designation should a cemetery, church, or Residential District locate within one-half mile of the existing Industrial

District. Required setback distance from Road centerline: State Highway -150; County Road – 100; Local Street – 100; Frontage Road – 70

ARTICLE IX. FP – FLOOD PLAIN DISTRICT

SECTION 1. Purpose.

The purpose of the Flood Plain District is to prevent flood incompatible development in areas which fall within the 100 year flood plain as established by the Federal Emergency Management Agency.

SECTION 2. The following uses shall be permitted:

A. Primitive camping areas which are served by restroom facilities outside the flood plain.

B. Agricultural uses limited to general agriculture, forestry, pasture, and commercial gardening.

C. Recreational uses limited to nature study, walking, hiking, picnic grounds, and undeveloped recreational areas.

SECTION 3. Uses Requiring Conditional Use Permits:

- A. Hiking, biking, horseback riding, ATV, snowmobile, or other trails.

- B. Camping facilities or parks which require any improvements.

- C. Dikes, dams, drainage systems, spillways, or other alterations which affect water movement.

SECTION 4. Performance Standards.

- A. All Zoning Permits shall include a complete site plan.

- B. Any building or construction within the District must be approved by the appropriate Federal and State agencies.

ARTICLE X. PR – PARKS AND RECREATION

DISTRICT

SECTION 1. Purpose.

The purpose of the Parks and Recreation District is to identify and promote areas for a wide range of recreational uses which require the construction of buildings and the alteration of the natural terrain.

SECTION 2. The following uses shall be permitted:

- A. Game and sports areas, pavilions, bandstands, picnic shelters, recreational equipment, and swimming areas.
- B. Primitive camping areas, including outhouse facilities provided such facilities meet Pennington County septic system regulations.
- C. Agricultural uses which existed at the implementation of this Ordinance.

SECTION 3. Uses Requiring Conditional Use Permits:

- A. Campground facilities which offer water, sewer, electrical, or modern restroom/shower

facilities.

B. Hiking, biking, horseback riding, ATV, snowmobile, or other trails which require alterations or which will cause damage to the natural terrain.

C. Raising crops and cutting hay, for the purpose of providing food and habitat for wildlife or for domestic livestock under lease with the authority managing the wildlife area.

D. Public river access, marinas, or docks.

E. Commercial activities related to recreational uses, including food stands, rental operations, or public performing areas.

F. Dikes, dams, drainage systems, spillways, or other alternations which affect water movement.

SECTION 4. Performance Standards.

A. All Zoning Permits shall include a complete site plan.

B. Road Setbacks

Required setback distance from Road centerline:

State Highway 150

County Road 100

Local Street 100

Frontage Road 70

ARTICLE XI. NON- CONFORMING USE

A. The following provisions shall be applicable to any non-conforming use in any of the Districts:

1. Non-Conforming use, buildings: The lawful use of a building or structure on property existing at the time of the adoption of this Ordinance may be continued although such use does not conform with the District provisions herein.
2. Non-Conforming use, extension: A non-conforming use may be extended throughout the building or structure, provided no structural alternations or changes are made therein, except those required by law or ordinance or such as may be necessary to secure or insure the continued advantageous use of the building during its natural life. A

non-conforming use may not be extended to any addition to a building built after the adoption of this Ordinance.

3. Non-Conforming use, damaged: Any non-conforming building or structure damaged more than 60 percent of its appraised market value according to the Pennington County Assessor's Office, at the time of damage by fire, collapse, explosion, or acts of God or public enemy, shall not be restored or reconstructed unless the foundation is inspected and approved by a licensed inspector. Then it may be restored, reconstructed to code provided it is done within 12 months of approval.

4. Non-Conforming use, property: The non-conforming use of property where a structure thereon is not so employed, existing at the time that this Ordinance becomes effective, may be continued provided: (a) the non-conforming use of property shall not in any way be expanded or extended either on the same or adjoining property; (b) that if the non-conforming use of property, existing at the time this Ordinance became effective, is hereafter discontinued or changed, then the future use of such property shall be in conformity with the provisions of this Ordinance.

5. Non-Conforming use, change: Whenever a non-conforming use has been changed to a

conforming use, or to a use permitted in the District in which it is located, it shall not thereafter be changed to a non-conforming use.

6. Non-Conforming use, discontinuance: In the event that a non-conforming use of any building, building and property, or property only, is discontinued for a period of one year, any use thereafter shall conform to the uses permitted in the District in which it is located.

7. Non-Conforming use, zone change: The foregoing provisions relative to non-conforming uses shall apply to buildings, property, and uses which hereafter become non-conforming due to reclassification of Districts under this Ordinance.

ARTICLE XII.

ADMINISTRATIO N

SECTION 1. Zoning Permits.

On and after the effective date of this Ordinance no person shall erect a new structure, add an addition to a structure, move an existing structure, complete any

construction on a site currently without buildings, complete any construction on a non-residential site with the intent of converting it to a residential site, increase the square footage of an existing building, change the footprint of an existing structure, or change the primary usage of an existing building to a non-permitted use, without first completing and submitting a Zoning Permit Application.

A. Application for a Zoning Permit shall be signed by the applicant or the applicant's agent and filed with the Town Clerk. The application shall be accompanied by a site plan.

B. The application shall state the nature of the proposed construction or addition, the estimated cost, the present and proposed use of the property or any structure on the premises.

C. Documentation that all applicable floodplain, shoreland, septic system, wetland, and feedlot regulations have been cleared.

D. Fees for a Zoning Permit shall be \$150 for the construction of a new home or business and \$75 for all other uses. The Town Board shall have the right to establish fees for construction and all other uses, said fee structure be reviewed on an annual basis and may be amended by resolution.

E. The Town Board shall take action to approve

or deny a written application for any action related to this ordinance within 60 days of receiving all the required information. The time line may be extended by up to 60 additional days upon written notification to the applicant stating the reason for the extension.

SECTION 2. Site Plan.

Applications for a Zoning Permit, conditional use permit, variance, or zoning amendment shall provide a site plan with the specific information as required by the Town Clerk or Town Board. This may include any of the following:

- A. Legal description and lot size of the proposed development;

- B. The location of, distance to, and size of adjoining boundary lines, drainage systems, roadways, public utilities, residential properties, lagoons, kennels, recreational areas, sensitive natural areas, racing facilities, feedlots, parking lots, principal buildings, accessory uses, storage areas, required buffers, existing improvements, and easements;

- C. Soil information;

- D. Plans for wells, sanitary sewage disposal, and surface drainage;

E. Location and size of access to streets;

F. Landscaping and elevation plans; including consideration of natural barriers, buffers, or other means of maintaining separation between conflicting uses in order to operate as a good neighbor.

G. Stages and timing of development program; and

H. Such other information as may be requested by the Town Clerk or Town Board.

SECTION 3. Conflict with other Laws.

Whenever any provision of this Ordinance imposes requirements more stringent than required by existing statutes and regulations of the State of Minnesota or any other ordinance or regulation of Pennington County or the Township, the provisions of this Ordinance shall govern.

SECTION 4. Administration and Enforcement.

It shall be the duty of the Town Board to administer and enforce the provisions of this Ordinance. The Town Board, at its option, may

appoint a Township Inspector to administer and enforce, under the direction of the Town Board, the provisions of this Ordinance.

SECTION 5.

Conditional use Permits.

A. Conditions. Conditions may be imposed to protect the health, safety, morals, and general welfare of the Township to any new or amended conditional use permit. The conditions shall be in addition to the requirements specified in this Section. The conditions may include, but are not limited to, the following:

1. Increasing the required lot size or yard dimensions;
2. Limiting the height, size, or location of the buildings;
3. Controlling the location and number of motor vehicle access points;
4. Setting the street width;
5. Setting a required number of off-street parking spaces or limiting the type of vehicle in the zone or participating in activities in the zone;

6. Limiting the number, size, location, or lighting of signs;
7. Requiring buffers, diking, drainage, fencing, tree planting, landscaping, or other facilities to protect adjacent or nearby property;
8. Designating sites for open space;
9. Time limits and review dates;
10. Increased setbacks; and
11. Such other conditions as the Town Board may require.

B. Procedure.

1. The applicant applying for a conditional use permit shall fill out and submit to the Town Clerk a Zoning Permit Application form together with a fee of \$500.00. The applicant shall also submit a site plan and such other information deemed necessary by the Town Clerk or the Town Board to evaluate the application.
2. The Town Clerk shall transmit the application for a conditional use permit and other information to the Town Board for public hearing.
3. A notice of the time, place, and purpose of the hearing shall be published in the official

newspaper of the Township at least ten days prior to the day of the hearing.

4. A notice of the time, place, and purpose of the hearing shall be mailed at least ten days before the day of the hearing to property owners within one half mile of the property to which the conditional use relates. Notice shall be in writing, mailed by first class mail, to be effective on date of mailing. 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 provision has been made.

5. The Town Board shall hold a public hearing to consider the application for the conditional use permit.

6. Persons requesting a conditional use permit shall appear before the Town Board in order to answer any questions.

7. The Town Board shall report its recommendation of approval, disapproval, or conditional approval of the proposed conditional use permit.

1. The Town Board shall take action on the application for the conditional use permit within 60 days after receipt of the completed application by the Township. The Town Board may approve, disapprove, or conditionally approve a

conditional use permit.

9. Once denied by the Town Board, an application for a conditional use permit shall not be reconsidered by the Town Board for 60 days.

C. Review. When a time limit or periodic review is included as a condition of the conditional use permit, the conditional use permit may be reviewed by the Town Board at a public hearing with notice of the time, place, and purpose of said hearing published at least ten days prior to the hearing. The holder of the conditional use permit shall receive ten days mailed notice of the time, place, and purpose of the hearing to be effective on date of mailing. It shall be the responsibility of the Town Clerk to schedule such public hearings and the owner of property having a conditional use permit shall not be required to pay a fee for such review. A public hearing for annual review of a conditional use permit may be granted at the discretion of the Town Board.

D. Time Limits. Once issued, a conditional use permit shall be null and void if construction of the proposed project has not been 20 percent completed within one year of the date that the conditional use permit was granted. The conditional use permit shall expire if that use shall cease for more than 12 consecutive months.

E. Modification. Any modification involving structural alterations, enlargement, intensification of use, or similar modifications not specifically permitted by the conditional use permit shall require an amended conditional use permit.

F. Conditional Use Review Criteria. No conditional use permit shall be approved by the Town Board unless the Town Board shall find that one or more of the following apply:

1. That the conditional use shall not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted and shall not impair the property values within the immediate vicinity;
2. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;
3. That adequate utilities, roads, water, sewer, waste water treatment, solid waste disposal, access roads, drainage, and other necessary essential services and facilities have been or are being provided;
4. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none

of these will constitute a nuisance and to control lighted signs and other lights in such manner that no disturbance to neighboring properties will result;

5. That adequate protection has been provided for any unique or sensitive environmental conditions in the area; and

6. Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith.

SECTION 6. Appeals.

The Town Board shall have the power to hear and decide appeals from any order, requirement, decisions, grant, or refusal made by the Town Clerk in the administration of this Ordinance. An appeal shall be in writing and filed in duplicate with the Town Clerk. Within ten days after filing of the appeal, the Town Clerk shall transmit to the Town Board all papers involved in the proceedings. Upon receipt of this material, the Town Board shall set a hearing and give notice in writing, mailed by first class mail, to be effective on date of mailing, of the time, place, and purpose thereof to the Appellant and to the Town Clerk. The Town Board may reverse or affirm, wholly or in part, any ruling, decision, or

determination and may issue or direct the issuance of a permit. The decision of the Town Board is the final administrative decision and may be appealed pursuant to statute.

SECTION 7. Zoning Amendments.

A. Criteria for Granting Zoning Amendments. In granting a request for a zoning amendment, the Town Board shall consider the effect of the proposed zoning amendment upon the health, safety, morals, and general welfare of the occupants of surrounding properties. Among other things, the Town Board shall make the following findings where applicable:

1. That the zoning amendment conforms to the Comprehensive Plan for the Township, as well as present land uses;
2. That the zoning amendment will not impede the normal and orderly development and improvement of surrounding property for uses predominant in the area;
3. That the zoning amendment will not adversely affect property values of the adjacent property owners;
4. That the zoning amendment will not impose other undue hardship on adjacent property owners such as noise, electrical display signs,

odors, or other nuisances;

5. That necessary utilities be available to serve the use intended;

6. That additional public service needed by the zoning amendment be considered;

7. That alternate areas previously zoned for the intended use be considered;

8. That there is a public need for the proposed land use.

B. Procedure.

1. Application for zoning amendment may be initiated by the Town Board or the property owner or agent of the property owner.

2. Persons wishing to initiate an application for zoning amendment shall fill out and submit to the Town Clerk a Zoning Permit Application together with a fee of \$500.00. The applicant shall also submit a site plan and such other information deemed necessary by the Town Clerk or Town Board to evaluate the application.

3. A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the Township at least ten days prior to the day of the hearing.

4. A notice of the time, place, and purpose of the hearing shall be mailed at least ten days before the day of the hearing to property owners within of the property to which the zoning amendment relates. Notice shall be in writing, mailed by first class mail, to be effective on date of mailing. 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 provision has been made.

5. The Town Board shall hold a public hearing to consider the application of the proposed zoning amendment.

6. Persons requesting a zoning amendment shall appear before the Town Board in order to answer any questions.

7. The Town Board shall report its initial recommendation of approval, disapproval, or conditional approval of the proposed zoning amendment.

8. The Town Board shall take action on the application for zoning amendment within 60 days after receipt of the completed application by the Township. The Town Board may approve, disapprove, or conditionally approve a proposed zoning amendment. A two-thirds vote of all its members is necessary for an approval or conditional approval which changes the zoning district from residential to

commercial or industrial.

9. Once denied by the Town Board, that application for zoning amendment shall not be reconsidered by the Town Board for 12 months.

SECTION 8. Variances.

The Town Board, upon request, shall have the power to authorize variances from the requirements of this Ordinance, and to attach such conditions to the variance as it deems necessary to assure compliance with the purposes of this Ordinance.

A. Criteria for Granting Variances. A variance may be granted only in the event that all of the following circumstances exist:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zoning district or vicinity and result from lot size or shape, topography, or other circumstances over which the owners of the property had no control;
2. That literal interpretation of the provisions of this Section would deprive the applicant of rights commonly enjoyed by other properties in the same District;
3. That the special conditions or circumstances

do not result from the action of the applicant;

4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Section to owners of other properties, structures, or buildings in the same District;

5. The variance requested is the minimum variance which would alleviate the undue hardship; and

6. The variance would not be detrimental to the purposes of this Ordinance, to the Comprehensive Plan, or to property in the same District.

B. Conditions. Conditions may be imposed to protect the health, safety, morals, and general welfare of the Township from any new or amended variance. The conditions shall be in addition to the requirements specified in this Section. The conditions may include, but are not limited to, the following:

1. Increasing the required lot size or yard dimensions;

2. Limiting the height, size, or location and number of motor vehicle access points;

3. Controlling the location and number of motor vehicle access points;

4. Setting the street width;
5. Setting a required number of off-street parking spaces;
6. Limiting the number, size, location, or lighting of signs;
7. Requiring buffers, diking, drainage, fencing, tree planting, landscaping, or other facilities to protect adjacent or nearby property;
8. Designating sites for open space;
9. Time limits and review dates; and
10. Such other conditions as the Town Board may require.

C. Procedure.

1. The applicant applying for a variance shall fill out and submit to the Town Board a Zoning Permit Application together with a fee of \$500.00. The applicant shall also submit a site plan and such other information deemed necessary by the Town Clerk or Town Board to evaluate the application.
2. The Town Clerk shall transmit the application for variance and other information to the Town Board for public hearing.
3. A notice of the time, place, and purpose of the hearing shall be published in the official

newspaper of the Township at least ten days prior to the day of the hearing.

4. A notice of the time, place, and purpose of the hearing shall be mailed at least ten days before the day of the hearing to property owners within of the property to which the variance relates. Notice shall be in writing, mailed by first class mail, to be effective on the date of mailing. 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 provision has been made.

5. The Town Board shall hold a public hearing to consider the application for the variance.

6. Persons requesting a variance shall appear before the Town Board in order to answer any questions.

7. The Town Board shall report its recommendation of approval, disapproval, or conditional approval of the proposed variance.

8. The Town Board shall take action on the application for variance within 60 days after receipt of the completed application by the Township. The Town Board may approve, disapprove, or conditionally approve a proposed variance.

9. Once denied by the Town Board, that

application for variance shall not be reconsidered by the Town Board for 12 months.

SECTION 9. Violations and Penalties.

A. Violation; Penalty: Any person who violates the provisions of this Ordinance, fails to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or conditional uses, or makes any false statement in any document required to be submitted under the provisions thereof shall be guilty of a misdemeanor and shall be punished as defined by law.

B. After the Fact Permits: Any person making application for a permit after the commencement of work requiring a permit, shall be charged an additional administrative fee as established by resolution of the Town Board. 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, the review and approval body shall require correction and/or restoration of the concerned property to its original state, including removal of structures or improvements.

C. Enforcement:

1. Administrative Officer: The Town Clerk, Planning Director or other appointed official is responsible for the administration and enforcement of this Ordinance.

2. Additional Actions Or Proceedings: In the event of a violation or threatened violation of this Ordinance, the administrative officer, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain or abate such violations or threatened violations, and it shall be the duty of the Township Attorney to institute such action.

3. Suspected Ordinance Violation: In responding to a suspected ordinance violation, the Town Clerk and Township may utilize the full array of enforcement actions available to it, including, but not limited to, prosecution and fines, injunctions or after-the-fact permits or orders for corrective measures to the guilty party. After the fact permits are permits applied for after construction or use has been initiated.

4. Discovery of Violation: When an ordinance violation is either discovered by or brought to the attention of the Town Clerk, the Town Clerk shall immediately investigate the situation and document the nature and extent of the violation of the official control.

5. Notification of Violation and Remedies: The Town Clerk shall notify the suspected party of

the requirements of this Ordinance and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Town Clerk may order the construction or development immediately halted until a proper permit or approval is granted by the Town Board. A permit or approval applied for after construction or use has been initiated, an after the fact permit, shall be subject to an administrative remedy for failure to comply comprised of an increased application fee. After the fact application for a permit does not guarantee approval. If the construction or development is already completed, then the Town Clerk may either: a) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or b) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed thirty (30) days.

6. Failure to Comply: If the responsible party does not appropriately respond to the Town Clerk within the specified period of time, each additional day that an ordinance violation occurs shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Town Clerk shall also upon

the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

7. Civil Penalty: In addition to the criminal penalty of a misdemeanor under the applicable criminal statutes, the Town Board may impose a civil penalty not to exceed \$1000.00 for each violation of the ordinance provided that the maximum penalty shall not exceed \$1000.00. Each additional day that a violation occurs shall constitute an additional violation of this Ordinance and shall be assessed a separate civil penalty.

SECTION 10. Effective Date.

This Ordinance shall be effective upon its passage and publication.

SECTION 11. Validity.

Should any Section or provision of this Ordinance be declared by a Court of competent jurisdiction to be invalid such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than the parts declared to be invalid.

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