

ARNA TOWNSHIP
ORDINANCE 2021 - 2

An Ordinance for

**ZONING, SUBSURFACE SEWAGE TREATMENT
SYSTEMS, CONDITIONAL & INTERIM USES,
SUBDIVISIONS, FLOODPLAINS, AND SHORELAND
MANAGEMENT**

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ORDINANCE 2021 - 2

ARNA TOWNSHIP ZONING, SSTS, CONDITIONAL & INTERIM USES, SUBDIVISIONS, FLOODPLAINS, AND SHORELAND MANAGEMENT ORDINANCE

The uncontrolled use of lands can contribute to many negative community impacts, including the degradation of the environment, inefficient road systems, overuse of limited resources, contention between abutting property owners, the impairment of the local tax base, and other similar problems. The Minnesota Legislature has authorized local governments to mitigate such effects by adopting ordinances that regulate the subdivision, use, and development of the land in their jurisdictions, including the Shoreland areas of public waters.

Therefore, the Town Board of Supervisors of Arna Township ordains: that this Zoning, Subsurface Sewage Treatment Systems, Conditional & Interim Uses, Subdivisions, Floodplains, and Shoreland Management ordinance for Arna Township, Pine County, Minnesota is in accordance with their Comprehensive Plan, and is hereby implemented in order to provide for the health, safety, and welfare of the people of Arna Township by promoting compatible land uses, preserving the tax base, and providing safety from danger with healthful living conditions.

SECTION 1: GENERAL PROVISIONS

1.1 STATUTORY AUTHORIZATION

This ordinance is adopted pursuant to the authorizations of Minnesota Statutes Chapters 462.351 to 462.365, Minnesota Statutes 365.125 Subd 3 and Minnesota Statutes 368.01 Subd 21, Minnesota Statutes 115.55, Minnesota Statutes Chapter 103F, Mn PCA Rules 7080 to 7083, Rules 7030.0030, Rules 7090.0080, Wetland Rules 8420, and Minnesota Regulations, Parts 6120.2500 to 6120.3900, and in all cases, to any such successor rules. Arna ordinance #2019-2, adopted by the Town Board on October 9, 2019, and published on October 17, 2019, is hereby repealed and replaced by the adoption of Ordinance 2021-2.

1.2 JURISDICTION

The regulations in this ordinance shall apply and be binding upon all areas of Arna Township. However, according to Minnesota regulations cited earlier, no lake, pond, or flowage of less than twenty-five (25) acres in size in unincorporated areas needs to be regulated by Shoreland regulations. Therefore, the Shoreland provisions of this ordinance do not apply to a separate body of water of less than twenty-five (25) acres, created by a private entity, which is not directly connected to public waters.

1.3 ABROGATIONS AND INTERPRETATION

It is the intent of this ordinance to supersede all Pine County regulations that duplicate the subjects included in this ordinance, as well as the Arna Township Ordinance 2019-2, including any amendments. It is not the intent of this ordinance to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or other applicable ordinances that were adopted properly at the time of their effective date. In their interpretation and application, the provisions

of this ordinance shall be held to be minimum requirements, so in cases where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

The penalties (see Appendix C) and remedies provided in this ordinance are in addition to any other penalty or remedy provided by ordinance, statute, or at common law. Any other penalty or remedy provided by ordinance, statute, or at common law shall not be construed as a limitation upon the penalties and remedies as provided in this article, nor shall the remedies and penalties provided in this article be construed as a limitation on any penalties or remedies available by other ordinance, statute, or at common law.

1.4 SEVERABILITY

The provisions of this ordinance shall be severable. The invalidity of any section, paragraph, or portion by a court of competent jurisdiction shall not make void any other section, paragraph, or part.

1.5 COMPLIANCE

Activities such as a) land use, including Conditional & Interim uses, b) the subdivision of land in regard to lot size, density, and shape, c) the use, size, type, and location of Structures, d) Residential density, e) the installation and maintenance of SSTS, and f) the grading, filling, erosion control, and cutting of vegetation in Shoreland areas of public waters shall be in full compliance with the terms of this ordinance.

1.6 NONCONFORMITIES

In keeping with Minnesota Statutes 462.357 Subd. 1e, any legally established Nonconformity existing at the time of adoption of this ordinance may continue. However, Nonconformities are still subject to any applicable Federal, State, and County regulations. Nonconformities that become conforming shall not be allowed to revert back to Nonconformities. The following two guidelines govern the broad treatment of Nonconformities, but additional regulations addressing issue-specific nonconformities can also be found in Sections 3.5.1, 3.5.2, 3.6.2, 3.6.5, 3.7.4, and 4.0. There is no intent under the following to limit or affect the right to apply for a variance.

- 1.6.1 Any nonconforming land use or occupancy that has been discontinued for at least twelve (12) continuous months shall not be allowed to resume.
- 1.6.2 Any non-conforming use that is destroyed by fire or other peril to the extent of greater than fifty (50%) percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, may be reestablished provided a building permit has been applied for within 180 days of when the property was damaged. In this case, the Township may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or body of water. When a nonconforming structure in the shoreland district with less than fifty (50%) percent of the required setback from the water is destroyed by fire or other peril to greater than fifty (50%) percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building

permit to mitigate created impacts on the adjacent property or body of water (see Minnesota Statute 462.357 Subd 1(E) (2)). Any buildings that are reestablished under this paragraph shall comply with Section 3.6 of this ordinance.

SECTION 2: DEFINITIONS

Unless otherwise specifically defined herein, all words and phrases defined in Minnesota Statutes 462.351 to 462.365, and Mn PCA Rules 7080 to 7083, shall have the same meanings when used in this ordinance. Unless otherwise specified, all distances shall be measured horizontally. Terms that are not specifically defined by law, shall be construed in accordance with their context and professional usage, and shall be further held to be minimum standards. The words "must" and "shall" are mandatory; the words "may" and "should" are permissive.

2.1 ACCESSORY USE or STRUCTURE - means any building or use that is subordinate to a principal building or use. Any permanent Structure, including but not limited to decks, sheds, saunas, or gazebos; anything that is neither a Residence, nor an RV, camper, bus, or similar item. Tents, RV's, campers, buses, and other such items shall not become an Accessory Structure because their use must stay consistent with their original design by remaining road ready, and serve Recreational purposes only. Accessory structures shall not be considered a Residence as long as there is no habitation of the building, but should occupancy occur, then the construction standards of Section 3.5.3, as well as SSTS requirements, shall apply.

2.1.A ADDRESS OF RECORD – the postal address in the Pine County Assessor's property tax records, used for official written communication between the Township and the person responsible for the property.

2.1.C ADMINISTRATIVE VIOLATION – means any violation of this ordinance that involves routine matters that are normally handled solely by the Zoning Administrator. For specific examples, refer to Section 8.1, Section 3.4.3, and especially to Table 3.4.9.

2.2 ANIMAL FEEDLOT - means a lot or building or a group of lots or buildings intended for the confined feeding, breeding, raising, or holding of animals. It includes areas specifically designed for confinement in which manure may accumulate or any area where the concentration of animals is such that a vegetative cover cannot be maintained.

2.3 ASSESSOR'S PARCEL OF RECORD – (aka lot) means a tract of land that is assigned one Parcel Identification Number (PID) in the record keeping system of the Pine County Assessor.

2.4 BLUFF - means a topographic feature such as a hill, cliff, or embankment having the following characteristics:

- a) Part or all of the feature is located in a Shoreland area.
- b) The slope rises at least twenty-five (25) feet above the ordinary high water level of the body of water.
- c) The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the ordinary high water level averages thirty percent (30%) or greater.
- d) The slope must drain toward the body of water.

An area with an average slope of less than eighteen percent (18%) over a distance of fifty (50) feet or more shall not be considered part of the bluff.

2.5 BLUFF IMPACT ZONE - means a bluff and land located within twenty (20) feet from the top of the bluff.

2.6 BOARD OF APPEALS - means the Arna Township Board of Appeals and Adjustments that is established by this ordinance.

2.7 BOATHOUSE - means a separate Structure used solely for the storage of licensed watercraft and boating equipment. It shall not be used for habitation and shall not contain sanitary facilities.

2.8 BUILDING LINE - means a line parallel to a lot line or ordinary high water level at a required setback beyond which Structures cannot exceed.

2.9 CAMPGROUND – has the same meaning as Recreational Camping Area as defined in Minnesota Statutes 327.14 Subp. 8.

2.10 CLASS V WELL – means a shallow well used to place a variety of fluids directly below the land surface, which includes a domestic SSTS serving more than 20 people. The U.S. E.P.A. and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large capacity cesspools are specifically prohibited (see CFR parts 144 & 146).

2.11 CLUSTER SYSTEM – means an SSTS under some form of common ownership that collects wastewater from two or more dwellings or buildings, and conveys it to a treatment and dispersal system located on an acceptable site near the dwelling or buildings.

2.12 COMMERCIAL USE: Commercial Uses and Home Occupations both involve activities on a parcel where the production of income for the landowner is involved. Class A Home Occupations require no permit, and Class B Home Occupations require an Interim Use permit. Otherwise, Commercial Uses are allowed by issuing a Conditional Use permit. Arna Township’s Comprehensive Plan states in part that the goal of the Township’s zoning policy is to maintain a quiet, relaxing rural life style and to promote passive recreational activities. Home Occupations and Commercial Uses that are allowed under this ordinance must be compatible with those goals. The following four lists are provided as a guideline to define allowable Commercial Uses:

- Retail stores, like grocery, hardware, clothing, craft shops, gift shops, and gas stations.
- Light manufacturing like auto & small engine repair, welding, cabinet shops, and sawmills.
- Recreational facilities that do not generate excessive noise, like golf courses, swimming pools, and tennis courts.
- Service sector facilities, like doctor’s offices, attorneys, banks, realtors, beauty salons, storage garages, and animal shelters, kennels and clinics.

2.13 COMMISSIONER - means the Commissioner of the Department of Natural Resources of the State of Minnesota (i.e., by way of our Area Hydrologist), or the Commissioner of the Minnesota Pollution Control Agency, as specified or inferred by the context.

2.14 CONDITIONAL USE - means a land use or development as defined by this 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, that the use or development conforms to the Comprehensive Plan, and the use is compatible with the existing neighborhood.

2.15 COUNTY - means Pine County, Minnesota.

2.16 DECK - means a horizontal unenclosed platform with or without attached railings, seats, or other features, attached or functionally related to a principal use or site. This shall exclude unenclosed on-grade concrete slabs.

2.17 DESIGN FLOW – means the daily volume of wastewater for which an SSTS is designed to treat and discharge.

2.18 DESIGN STANDARD - defines a road's minimum horizontal distance of unobstructed view forward, or degree of turning radius needed, for a typical vehicle to be in conformance with the National Highway Safety Council parameters as a stopping distance under those conditions.

2.19 DEVELOPED LOT - has two meanings depending on the context: 1) as it relates to Site Development permits, or 2) as it relates to Mn PCA SSTS regulations:

- 1) For Site Development permits a lot becomes developed whenever it has been altered from its natural unimproved state in order to facilitate the active use of that lot, including but not limited to the installation of a driveway, electrical service, a campsite, RV's, one or more buildings of any kind, a well, an SSTS, or any other such improvements. The mere act of creating a new lot by subdivision or plat does not in and of itself constitute a change in status from undeveloped to developed.
- 2) For sewage treatment issues, a lot becomes developed whenever activity on that lot results in accumulations of human waste. In cases where human waste is contained in an RV holding tank, a temporary "satellite", or any other similar device that contains all such waste, and which is removed from that lot to become pumped at an approved RV pumping station or other such similar disposition, shall not constitute a developed lot.

2.20 DRIVEWAY - means a road under private ownership that serves vehicular access to a parcel of land.

2.21 DUPLEX, TRIPLEX, QUAD - means a Residential Structure on an assessor's parcel of record, having two, three, and four units, respectively, being attached by common walls, where each unit is equipped with separate sleeping, cooking, eating, living, and/or sanitation facilities.

2.22 DWELLING SITE - means a designated location for a dwelling, for use by one (1) or more persons, using either a temporary (e.g., an RV) or permanent (e.g., a cabin) Structure.

2.23 DWELLING - means the vehicle, the Structure, or portion of a Structure, used as living quarters for one (1) or more persons, for either short- or long-term occupancy, including rental or time-share accommodations such as motels, hotels, and resort cabins and rooms.

2.24 ESSENTIAL SERVICES - means all overhead or underground electrical, gas, steam, or water transmission or distribution systems and Structures, or collection, communication, supply or disposal systems and Structures, used by public utilities or governmental departments or commissions, or as are required for protection of the public good, including towers, poles, wires, substations, mains, sewers, pipes, and accessories in connection therewith, but not including buildings. For the purpose of this ordinance, the word "building" does not include "Structure" for Essential services.

2.25 EXTRACTIVE USE - means the use of land for removal of sand, gravel, rock, industrial minerals, other non-metallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.

2.26 FOREST LAND CONVERSION - means the removal of forest vegetative cover to prepare for a different land use other than for a subsequent stand of timber.

2.27 GUEST COTTAGE - means any Structure used as a dwelling that contains sleeping spaces, kitchen, or bathroom facilities in addition to those provided in the principal dwelling on that lot.

2.28 HEIGHT OF BUILDING - means the vertical distance between the highest adjoining ground level at the building or ten (10) feet above the lowest ground level, whichever is lower, and the highest point of a flat roof, or the average height of the highest gable of a pitched roof.

2.30 HOME OCCUPATION – A Home Occupation exists whenever there is a business activity on a property that is secondary to the Principal Use of that property as full-time homestead residential use. This ordinance distinguishes two types of Home Occupations, those being either Class A or Class B Home Occupations.

- Class A Home Occupation: Class A Home Occupations are those which a) only employ family members residing within the home, b) do not require more than normal residential parking space for the customers of the business, and c) utilize only the principal residential dwelling as the actual location of the business activity. Examples would be architects, accountants, artists, clergymen, clothing alterations, domestic crafts making, single-customer hairdresser salons or barbershops.
- Class B Home Occupation: Class B Home Occupations are those that differ from any of the three conditions listed above for Class A. In other words, a business on a homesteaded property would be a Class B activity if the building used was not the residential dwelling, any workers are not family members, or extra parking space is needed for the business. Examples would be small engine repair shops, sawmills, welding shops, cabinet shops, or animal care facilities.

2.31 IMMINENT THREAT TO PUBLIC HEALTH AND SAFETY - when raw sewage is on the ground surface, or in surface waters, as fully defined by Mn PCA Rules 7080.1500 Subp. 4 A.

2.32 INDUSTRIAL USE – means the use of land or buildings when the use involves the potential for any harmful effects to the environment from chemicals, materials, and/or any toxic byproducts, used for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other retail or wholesale items.

2.33 INTENSIVE VEGETATION CLEARING - means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

2.33A INTERIM USE: A use allowed within a particular zoning district upon the issuance of an interim use permit and subject to such conditions as the Township may impose on the permit to address anticipated impacts from the use. Interim use permits expire on the date or upon the happening of an event specified in the permit.

2.34 ISTS – means an Individual Sewage Treatment System per Mn PCA Rules, that has a design flow of no more than 5,000 gallons per day.

2.37 JUNKYARD - means the commercial use of land or buildings where waste, discarded or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled, or handled, which materials include but are not limited to appliances, scrap metal, rags, paper, glass products, lumber products, and products resulting from the wrecking of automobiles or other vehicles. A junkyard is a regulated use in the township that requires the issuance of an Interim Use permit by the township prior to operation.

2.38 LOT - means a parcel of land designated by plat, proportional description (aliquot), metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation. An Assessor's Parcel of Record.

2.39 LOT DEPTH - means the minimum horizontal distance from the front to the back property lines, and may be measured from the centerline of road and easement right-of-ways.

2.40 LOT WIDTH - means the minimum horizontal distance from side yard to side yard, and may be measured from the centerline of road and easement right-of-ways.

2.41 MALFUNCTION – means the partial or complete loss of function of a SSTS component, which requires a corrective action to restore its intended function.

2.42 MANUFACTURED HOME - means any Structure that was constructed according to the requirements of Minnesota Statute 327.31 Subd.6.

2.42.AA MANUFACTURED HOME PARK – has the same meaning as Minnesota Statute 327.14 Subd.3.

2.42.A MINOR CONSTRUCTION – means all construction improvements made on property that is exempt from the need to have a Site Permit under Section 3.5.1 f).

2.43 MINOR REPAIR – means the repair or replacement of an existing damaged or faulty component or part of an SSTS that will return the SSTS to its operable condition. The repair shall not alter the original area, dimension, design, specifications, or concept of the SSTS.

2.44 MOBILE HOME – means a detached Residential unit, including Manufactured Homes made prior to the June 14, 1976 HUD standard, designed for transportation after fabrication, and made ready for occupancy through minor and incidental assembly operations such as placement on foundations, connections to utilities, and the like. Current use, such as for a storage shed for example, does not alter the fact that it was originally constructed for Residential use.

2.45 MONITOR - means to measure septage flow and/or test water samples in order to demonstrate continued performance in accordance with the original permit approval conditions.

2.46 Mn PCA – means the Minnesota Pollution Control Agency.

2.47 MSTs - means a Midsized Sewage Treatment System per Mn PCA Rules, which has a design flow of 5,000 to 10,000 gallons per day (see Rules 7081).

2.48 MUNICIPALITY - means Arna Township, Pine County, Minnesota.

2.49 NONCONFORMING SSTS - means the lack of any SSTS whatsoever on a Developed Lot, an SSTS installed without any permit, or an SSTS installed with a permit that is:

- a) SSTS that do not meet the compliance criteria described in Mn PCA Rules 7080.1500 Subp. 4 - Items A through F
- b) SSTS that do not meet water well setback requirements when installed after the water well
- c) A system where any part of the system is under or within ten (10) feet of a building
- d) Privies with sealed containers that do not meet the capacity and construction requirements of Mn PCA Rule 7080.2280

2.50 NONCONFORMITY - means any regulated activity, parcel, or Structure already in existence, recorded, and/or authorized prior to the date of adoption of this ordinance, that would not be permitted today under the terms of this ordinance. However, any regulated activity, parcel, or Structure that was issued a permit that was properly executed according to the terms of that permit, shall not be considered nonconforming due to a change in subsequent regulations, as long as the regulated activity, parcel, or Structure is still in compliance with the original standards and regulations that were in effect when it was originally approved.

2.52 ORDINARY HIGH WATER LEVEL - means the boundary of public waters at an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape. This is commonly that point where the natural vegetation changes from predominately aquatic to predominately terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the immediate bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

2.53 PARCEL – is a parcel of land, an alternate term for Lot, or an Assessor’s Parcel of Record.

2.53AAA PLANNING COMMISSION – means the Arna Township Planning Commission, unless otherwise specified.

2.53AA PRACTICAL DIFFICULTY – as it pertains to the processing of requests for a variance, Practical Difficulty has the meaning given to it both by Minnesota Statute 462.357 Subd 6 (2), as well as situations of “unusual hardship” as described by Minnesota Statute 462.358 Subd 6.

2.53AA1 PRINCIPAL BUILDING OR USE: is the primary or main use of land or buildings as distinguished from subordinate, incidental or accessory uses and structures.

2.53.A PROPERTY OWNER – The named entity on the Address of Record.

2.53.B PROPERTY OWNER’S AGENT – A person representing the interests of a Property Owner, such as an attorney, a contractor for the owner, or any other person so designated by the Property Owner. If the agent has legal standing in his representation of the Property Owner, then the Property Owner must so designate this in writing to the Township.

2.54 PROPORTIONAL PROPERTY DESCRIPTION - means a parcel whose legal description uses fractional parts of sections, ranges, and township numbers, such as for example, the E1/2 of the SW 1/4 of Section 10, Township 42 North, Range 16 West, Pine County, Minnesota (aliquot).

2.55 PUBLIC ROAD - means a public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated a street, highway, road, avenue, boulevard, place, or however otherwise designated. Ingress and egress easements shall not be considered public roads.

2.56 PUBLIC VIEW - means the ability to see some object on a property, during winter leaf-off conditions (except as viewed from an airplane) without trespassing on that property. This is often called "As viewed from public roads and public waters". A privacy fence or privacy screen obstructs a public view.

2.57 PUBLIC WATERS - are defined in Minnesota Statutes, 103G.005, Subd. 15 & 18.

2.58 QUARTER-QUARTER SECTION - means the legal description of a theoretical forty (40) acre parcel that results when using the Rectangular Survey System to describe land. For example, the NW 1/4 of the SW 1/4 is a quarter-quarter section.

2.59 REASONABLE USE – a legal term about the use of a property that is for a suitable and beneficial purpose that does not lead to the unreasonable interference with another person’s use of their property. It is a legal “right” for a person to make “reasonable use” of their property.

2.59.A RECREATIONAL CAMPING VEHICLE – aka RV – has the same meaning as in Minnesota Statutes 327.14 Subp 7.

2.60 RECREATIONAL USE - means the same as for its common usage; whenever a property or Structure is used primarily for relaxation and enjoyment, but not as a residence.

2.61 RESIDENCE - means any permanent Structure that humans occupy for the purpose of eating, sleeping, repose, and other such activities. Frequency of occupancy shall not alter the definition of a Residence. Tents, RV's, buses, camping vehicles, and other such items shall not become a Residence because their use must stay consistent with their original design by remaining road ready, and serve Recreational purposes only.

2.62 RESIDENTIAL DENSITY – has its normal connotation, but when determining SSTS capacity requirements, all residential structures on the property, including cabins, guest cottages, and detached bedrooms, shall be used in determining the load bearing requirements of the SSTS.

2.63 RESIDENTIAL USE - means the use of any property or Structure where a Residence is established for any period of time.

2.64 ROAD READY – is the condition of an RV, camper, bus, or any other similar device that is maintained, licensed and/or insured, and ready for legal operation on public roads and highways.

2.65 SALVAGE YARD – an alternate name for a junkyard.

2.68 SEMI PUBLIC USE - means the use of land by a private non-profit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

2.69 SENSITIVE RESOURCE MANAGEMENT - means the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

2.70 SETBACK - means the minimum horizontal distance between a Structure, SSTS, or other facility and an ordinary high water level, road, highway, property line, or other point of demarcation.

2.71 SHORE IMPACT ZONE - means land located between the ordinary high water level of a public water and a line parallel to it at a setback of fifty percent (50%) of the structural setback.

2.72 SHORELAND - means land located within the following distances from the ordinary high water level of public waters:

- a) 1000 feet for a lake, pond, or flowage
- b) 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on a river, whichever is greater
- c) 412 feet for the area along the St. Croix River.

2.73 SIGNIFICANT HISTORIC SITE - means any archaeological site, standing Structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. An historic site meets these criteria if it is currently listed on either register or if it is determined to meet the qualifications for

listing after review by the Minnesota State Archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

2.74 SSTS - means a Subsurface Sewage Treatment System per Mn PCA Rules 7080 to 7083, whether an individual ISTS or a mid-sized MSTs.

2.75 STEEP SLOPE - means lands having average slopes over twelve percent (12%), as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.

2.75A STORAGE GARAGE - means any building that provides individual storage units or areas that may be accessed only by the individual who is storing materials in that unit or area. Any Structure containing two (2) or more such units shall be considered a Storage Garage. Automobile fuels shall not be sold and motor vehicles shall not be equipped or repaired from any storage unit.

2.76 STORAGE SHED – (aka shed) means an Accessory Structure used to hold any materials, regardless of whether they are junk materials, tools, commercial property, animals or other agricultural products and materials, or even materials without any specific designation.

2.77 STRUCTURE - means any building, camping vehicle, RV, mobile home, manufactured home, or other similar improvement, including but not limited to, dwellings, decks, saunas, gazebos, and storage sheds. Aprons, sidewalks, concrete slabs, fences, and aerial or underground utility lines, such as sewer, electric, telephone, gas lines, towers, poles, and other such facilities shall not be considered a Structure.

2.78 SUBDIVISION - means the division of a tract of land into two or more lots or parcels for the purpose of transfer of ownership or building development, or establishing a new road easement, public or private. Section 4.1.1 lists situations that are not considered a subdivision.

2.79 SURFACE WATER-ORIENTED COMMERCIAL USE - means the use of land for commercial purposes where access to and use or view of surface water features is an integral part of that business. Marinas, resorts, and restaurants with transient docking facilities are examples of such uses.

2.80 TOE OF THE BLUFF - means the lower point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be the lower end of a fifty (50) foot segment, measured on the ground with an average slope exceeding eighteen percent (18%).

2.81 TOP OF THE BLUFF - means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be the upper end of a fifty (50) foot segment, measured on the ground, with an average slope exceeding eighteen percent (18%).

2.82 TOWN BOARD – means the Arna Township Town Board of Supervisors, unless otherwise specified.

2.83 TOWNSHIP INSPECTOR – means the appropriately trained and Mn PCA licensed person who is contracted by Arna Township to perform SSTS inspections on behalf of Arna Township.

2.84 TYPE I SYSTEM – an SSTS that follows a standard trench, bed, at-grade, mound, or graywater system design in accordance with Mn PCA Rules 7080.2200 through 7080.2240.

2.85 TYPE II SYSTEM – an SSTS with acceptable modifications or sewage containment systems that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system. These include systems on lots in floodplains, and privies or holding tanks.

2.86 TYPE III SYSTEM – A custom designed SSTS having acceptable flow restriction devices to allow its use on a lot that cannot accommodate a standard Type I soil treatment system (see Rules 7080.2300, and amendments thereto).

2.87 TYPE IV SYSTEM – an SSTS having an approved pretreatment device and incorporating pressure distribution and dosing, that is capable of providing suitable treatment (see Rules 7080.2350, and any amendments thereto).

2.88 TYPE V SYSTEM – An SSTS which is of a custom engineered design to accommodate the site, taking into account pretreatment effluent quality, loading rates, loading methods, groundwater mounding, and other relevant soil, site, and wastewater characteristics such that groundwater contamination by viable fecal coliforms is prevented (see Rules 7080.2400).

2.89 UNDEVELOPED LOT - means any lot or parcel which has not been altered from its natural undisturbed state, by making changes to facilitate or accommodate human visitation or use of that lot.

2.91 USABLE LOT - means any proposed new parcel of land which meets all of the following conditions:

- a) Is in conformance with Minnesota Rules 7082.0100 Subp. 3 f), by having the soil conditions needed for two Type I soil absorption areas.
- b) Is capable of supporting a shallow well (i.e., there is room for a well located at least 100 feet from the SSTS).

- c) Has a minimum contiguous 2,000 square foot building site on high ground comprised of soils which do not require any enhancement in order to meet normal structural standards for residential construction.
- d) Contains a minimum yard space of 20,000 square feet or more, in addition to the building site requirement in c) above.
- e) The square footage requirements of c) and d) shall not include any land which is a public road, an easement of any kind (drainage easement, utility easement, access easement, and so forth), or suffers any similar encumbrance.
- f) The building site is related to the lot's available point of ingress and egress (public road or easement) in such a manner that construction of a driveway would not eliminate more than the de minimus wetland area which is available for that site.
- g) The lot depth to width ratio does not exceed two to one (2:1).
- h) The lot is capable of supporting all other setbacks and dimensional standards of this ordinance (such as but not limited to building site setback from roads, public waters, utility easements, and side yards), in a manner that creates no foreseeable variance situations.

2.92 VACATION HOME RENTAL (VHR) - means any home, cabin, condominium, guest house, RV, or similar building, that is advertised or held out to the public as a place where sleeping accommodations are furnished repetitively to the public on a nightly or weekly basis and is not a bed and breakfast, lodging, resort, hotel, or motel (see Minnesota Statute 157.15).

2.93 VARIANCE – has the meaning and purpose described in Minnesota Statutes 462.357 Subd. 6 (2), and Minnesota Statutes 462.358 Subd. 6 (also see Section 6, and the definition of Practical Difficulty above).

2.94 WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY - means a small above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structural setback. These Structures shall only include: boathouses, gazebos, screen houses, pump houses not exceeding sixteen (16) square feet, saunas, and detached decks.

2.95 WETLAND - means all types and sizes of wetlands that meet the wetland definition as outlined in the January 1989 "Federal Manual for Identifying and Delineating Jurisdictional Wetlands". In other words, the land over which the Pine County Soil and Water Department has jurisdiction.

SECTION 3: ZONING REGULATIONS

The following zones, guidelines, and regulations are set forth as a means to administer land development in Arna Township. The Zoning Administrator shall have a map available which shows the location of all zones. The official zoning map can also be found on the last two pages of this ordinance, and such map is hereby adopted as Arna Township's official zoning map.

3.1 SHORELAND AREAS (also see Section 5 of this ordinance)

Arna Township has two Shoreland land-use districts (SP and RR) as described in Section 5.2, and two land-use districts described in Sections 3.2 (Zone A – Townsite Zone) and Section 3.3 (Zone B – Rural Zone). Public water setbacks and other Shoreland regulations are covered in Section 5. Lot density, Residential density, dwelling standards, SSTS regulations, Conditional and Interim Use permits, and other such land-use restrictions are covered in Section 3. If a conflict arises between Section 3 and Section 5, the greater restriction shall apply.

3.2 TOWNSITE AREA – ZONE A

Zone A is an area where the pre-ordinance existing lots are small and the population density is high, relative to the rest of the township. Zone A surrounds the Markville Townsite platted areas, and is approximately 200 acres in size. It is described as NW ¼ of SE ¼, and W ½ of NE ¼, and SE ¼ of NE ¼, and SE ¼ of NW ¼, all in Section 26, Township 42 North, Range 16 West, Pine County, Minnesota. The zoning maps at the end of this ordinance show the location of Zone A. Zone A does not contain any DNR designated Shoreland areas.

3.2.1 PERMITTED USES: The following uses are allowed in Zone A:

- a) Single family Recreational and Residential principal and accessory structures in accordance with Minnesota Statute 462.357 Subp 7.
- b) Governmental and other public uses and buildings
- c) Class A Home Occupations
- d) Greenhouses and nurseries
- e) Essential Services

3.2.2 CONDITIONAL USES: The following Conditional Uses are regulated in Zone A:

- a) Multi-family principal and accessory structures
- b) Religious and Educational facilities
- c) Communication Towers
- d) Commercial uses, except any activities like sawmills that generate excessive noise
- e) Beverage, restaurant, and other food service establishments
- f) More than two single family residences per parcel

3.2.3 INTERIM USES: The following Interim Uses are regulated in Zone A:

- a) Class B Home Occupations
- b) Vacation Home Rental
- c) BnB establishments

3.2.4 PROHIBITED USES: The following Uses are prohibited in Zone A:

- a) Agricultural uses and buildings, including feedlots

- b) Mining and other extractive uses
- c) Any system of dwellings, or overnight accommodation facilities other than those listed above as Allowed, Conditional, or Interim, such as PUDs, hotels, motels, campgrounds, lodging, resorts, mobile home parks, and manufactured home parks
- d) Industrial uses and buildings
- e) Racetracks, motocross, mud bogging, paintball, shooting ranges, sawmills, and any other such recreational and/or commercial activities that generate excessive noise
- f) Hunting preserves or other such uses
- g) Junkyards and salvage yards

3.2.5 OTHER PROVISIONS:

3.2.5.1 All subdivisions in Zone A shall conform to the definition of a Usable Lot.

3.2.5.2 All building setbacks should be in conformance with adjacent buildings when possible. In the absence of any standard, setbacks shall be at least twenty (20) feet from the right-of-way edge of all county and township roads. Setbacks from side yards shall be ten (10) feet. In the case where any other jurisdiction other than Arna Township requires a greater setback than those set forth in this ordinance, then the setback of that jurisdiction shall apply.

3.2.5.3 Alleys in platted areas are exempt from the setback regulations of Section 3.2.5.2.

3.2.5.4 Residential Density on every Assessor's parcel of Record that has a Type I SSTS, or a holding tank, shall be limited to the performance standards of the SSTS on that parcel. In all cases where Residential density appears to exceed the capacity of the existing SSTS, township records shall be used, when available, as the means to determine the SSTS capacity. In cases where no records exist, a Compliance Inspection shall be required in order to determine the SSTS capacity. In situations where existing SSTS are determined to be inadequate to support the Residential density, then either the Residential density must be reduced to appropriate levels, or else the SSTS must be upgraded to support the increased demands on the system.

3.2.5.5 All Conditional and Interim Uses shall conform to all relevant Federal, State, and County codes, licenses, and regulations. When applicable, such Conditional and Interim Uses shall also conform to any customary guidelines and standards that may be endorsed by professional associations in that line of business.

3.3 RURAL AREA – ZONE B

Zone B is defined as all parts of Arna Township that are not in Zone A.

3.3.1 PERMITTED USES: The following uses are allowed in Zone B:

- a) All of the permitted uses allowed in Zone A (Section 3.2.1)
- b) Agricultural Uses and buildings, but not feedlots
- c) Forestry and forest management
- d) Temporary roadside stands for selling produce

- e) Permitted uses as regulated and listed in Section 5.2.1.2 and Section 5.2.2.2

3.3.2 CONDITIONAL USES: The following Conditional Uses are regulated in Zone B:

- a) All Conditional Uses regulated in Zone A (Section 3.2.2), but also including sawmills.
- b) Conditional Uses as regulated and listed in Shoreland areas (Section 5.2.1.3, Section 5.2.2.3, and Section 5.4.1.2).

3.3.3 INTERIM USES: The following Interim Uses are regulated in Zone B:

- a) All of the Interim Uses regulated in Zone A (Section 3.2.3)
- b) Mining and extractive uses, including the use of a gravel crusher (also see also Section 5.6.3).
- c) Hunting preserves
- d) Junkyards and salvage yards
- e) Any listed Conditional Use that is intended to be implemented on a temporary basis.

3.3.4 PROHIBITED USES: The following Uses are prohibited in Zone B:

- a) Feedlots
- b) Any system of dwellings, or overnight accommodation facilities other than those listed above as Allowed, Conditional, or Interim, such as PUDs, hotels, motels, campgrounds, lodging, resorts, mobile home parks, and manufactured home parks
- c) Industrial uses and buildings
- d) Racetracks, motocross, mud bogging, paintball, shooting ranges, and any other such recreational activities that generate excessive noise

3.3.5 OTHER PROVISIONS:

3.3.5.1 Lot density shall not be greater than two (2) parcels in any half of a quarter-quarter section. All subdivisions shall conform to the definition of a Usable Lot.

3.3.5.2 Building setbacks are at least fifty (50) feet from the centerline of all public roads and from all other property lines.

3.3.5.3 Section 3.2.5.4 and Section 3.2.5.5 from Zone A shall also apply in Zone B.

3.4 GENERIC PERMIT PROCEDURES

The following is provided for consistency in describing the general permitting process in Arna Township. This avoids repeating this information again and again under Site Permits, SSTS Permits, Conditional/Interim Use Permits, and so on. However, be aware that deviations from these guidelines may appear in the various sections dedicated to each specific kind of permit.

3.4.1 **APPLY FOR PERMIT:** No work shall begin on a regulated activity until the permit for it has been issued. Applications for permits are made on those obtained from the Zoning Administrator, the Township Clerk, or the Township web site. The completed application is returned to the Zoning Administrator, accompanied by the fee called for

in that application (if any). The applicant shall answer all questions that are indicated on the form, along with sufficient detail to satisfy the township that the regulated action will conform to the provisions of this ordinance.

- 3.4.2 **ZONING ADMINISTRATOR REVIEW:** The Zoning Administrator shall log the date received, and review the application for completeness. If deemed incomplete (say for example, that the application is not signed, that a bond is required as described in Section 3.4.6, or a necessary map or other required information is not included), then the Zoning Administrator shall return the application to the applicant within 15 business days stating in writing why it is being returned. However, if the application is for an appeal to some previous adverse Township decision, then the Zoning Administrator shall send the application directly to the Board of Appeals without review.
- 3.4.3 **NOTIFY THE APPLICANT:** After review, the Zoning Administrator shall forward the application to the proper jurisdiction (see Table 3.4.9). Because the Planning Commission normally meets quarterly, depending on the timing, the Zoning Administrator may attempt to arrange for an “out-of-schedule” Planning Commission meeting for the next immediate month. For matters where the Zoning Administrator is not authorized to simply issue or deny the permit or action, then the Zoning Administrator shall inform the applicant in writing of the time, date, place of the meeting at which the applicant may want to appear, and that the applicant may designate an alternate representative for that meeting. As indicated elsewhere in each relevant section of this ordinance, other notifications may also need to be made by the Zoning Administrator.
- 3.4.4 **PUBLIC HEARING & TIME LIMITS:** When necessary (e.g., not for Site and SSTS permits), the application shall be reviewed by the appropriate jurisdiction, and if necessary, a public hearing shall be conducted, including the posting requirements to newspapers, posting on the Town Hall, notice to abutting or nearby property owners (when applicable), and so forth. If the application involves a Shoreland area, the Commissioner of the DNR shall also be notified of the public hearing. The board may set the matter aside pending additional information, and/or they may seek expert advice on any matter they do not feel qualified to review. If it appears the matter may extend beyond the period of the 60-day rule (Minnesota Statute 15.99), then up to 60 more days may be declared by notifying the applicant in writing of the length and reason(s) for the time extension.
- 3.4.5 **DECISION:** The jurisdiction over the application shall make a Findings of Fact and then vote whether to approve as is, modify, or disapprove the application, and shall either authorize the Zoning Administrator to issue the permit (and also record it at the county courthouse, if necessary), or notify the applicant of the reason for denial by regular mail within sixty (60) days (plus extension, if any) of the date the completed application was received.
- 3.4.6 **LIABILITY:** The fees for processing the various permits administered by this ordinance (see Table 3.4.9) are based on the usual and customary township costs to issue those permits. The applicant of any permit that incurs extraordinary costs to the township is

liable for those costs, including, but not limited to, attorney fees, surveyor fees, highway engineering fees, planning consultant fees, wetland delineation costs, Environmental Assessment Worksheet (EAW) costs, Environmental Impact Statement (EIS) costs, soils engineering studies and recording costs. The costs to implement the solutions required to make the project compliant with the conclusions of those studies shall also be borne by the applicant. The Township may require a cash escrow be posted by the applicant at the time of application to cover the estimated costs of such items. In such event, the application shall not be considered complete until such escrow is posted with the Township. The Township may reimburse itself from such escrow and may require that the applicant replenish the escrow as it is used to reimburse the Township. Any escrow remaining after all such costs have been reimbursed and after processing of the application is complete shall be returned to the applicant. All such costs shall be due regardless of whether the application is granted or denied. If the applicant fails to pay the costs required by this section, the Township may certify such costs to the County Auditor under the authority of Minnesota Statute 366.012 for collection with the property taxes of the property that is the subject of the application.

3.4.7 **PERMITS:** It is a violation of this ordinance to either alter or to not fully implement the terms of any permit issued by the township. Penalties for such may be assessed. Permits that require inspections are valid for one (1) year. A time extension of one (1) year may be filed for a fee, and approved only once for any permit. Discovery of significant false information on any permit application discovered after the permit has been issued may be cause to revoke the permit, along with a penalty. If a parcel is sold, all legally issued, but as yet unimplemented permits are transferable to the subsequent property owner, except for Interim Use permits which contain a provision terminating such permit upon transfer of ownership of the property.

3.4.8 **INSPECTIONS:** For permits that require inspections, the following shall apply, unless specifically stated differently elsewhere (e.g., see Section 3.6.4 for SSTS protocols):

- a) Applications for permits shall provide a space for the applicant's signature indicating acceptance of these terms for inspections (i.e., access to records and outdoor property). Refusal to grant access to a property is a violation of this ordinance.
- b) When practical, inspections shall be conducted at the times requested by the applicant.
- c) In cases where no call for an inspection or a time extension has been received by the township by the expiration date on the permit, the Planning Commission shall investigate whether to issue a Notice of Violation (see Section 8.3.1).
- d) If some item that needs inspection has been buried prior to inspection, the township reserves the right to require that the applicant uncover that item for inspection.
- e) The final approval of any permit is not given or implied until the final inspection has been made and approved by the signature of the Zoning Administrator, his delegate, or a Town Board member on the space provided on the permit. See the following table for the appropriate jurisdiction. It is the responsibility of the applicant to have his permit available for signing at the time of the inspection.

TABLE 3.4.9

The following table shows the various permit applications and other requests the public may make of the township. This table shows the person or board that has jurisdiction, whether a public hearing is required for that topic, what permits are recorded at the Pine County Courthouse, and what section of this ordinance contains additional information about each topic.

APPLICATION IS FOR:	INSPECTOR or JURISDICTION	NOTIFY LAND WITHIN	PUBLIC HEARING REQ'D	RECORD AT COURT HOUSE	REFER TO ORDINANCE SECTION
At Grade or Mound SSTS	Twsp SSTS Insp				3.6.4.1
Drainfield only	Twsp SSTS Insp				3.6.4.1
Privy or Holding tank	Twsp SSTS Insp				3.6.4.1
Operating Permit	Twsp SSTS Insp				3.6.6
SSTS Abandonment Report	Property Owner				3.6.3.10
SSTS Compliance Insp.	Any PCA Insp				3.6.5
Minor system (satellite)	Zoning Admin				3.6.4.1
Apply septage on land	Zoning Admin				3.6.3.9
Site Development	Zoning Admin				3.5.1
Site Development w/ SSTS	ZA & Twsp Insp				3.5.2
Time Extension for permits	Zoning Admin				3.4.7
Time Extension Violations	PC or TB				8.3.1 d)
Shoreland Alteration	Zoning Admin				5.4
Conditional/Interim Use Permit	Planning Comm	¼ mile	yes	yes	3.7.3
Privacy Screening Plan	ZA, PC, or TB				3.7.5
Minor Subdivision (not a plat)	Planning Comm				4.2
Preliminary Plat	Planning Comm	½ mile	yes		4.3
Final Plat review & approval	Town Board			yes	4.4
Variance	Town Board		yes	yes	6.2
Appeal	Town Board		yes		6.2
Text Amendments	Town Board		yes	yes	7.2
Administrative Violations	Zoning Admin				8.3.1 a

3.5 SITE DEVELOPMENT PERMITS

3.5.1 GENERAL REQUIREMENTS

Routine repair, maintenance, and remodeling of existing Structures, such as but not limited to new roofs, windows, siding, floors, or kitchen cupboards, shall not require a Site Development permit as long as the construction does not change the vertical or horizontal footprint of the Structure. Otherwise, prior to commencing the improvement(s), a Site Development permit is required for all new Structures according to the following guidelines (NOTE: pay special attention to the definitions for Structure, Residence, Accessory Structure, Manufactured Home, and Mobile Home):

- a) A site development permit is required for all Nonconforming Structures, by reason of enforcing Section 1.6.
- b) A site development permit is required for all Structures within a Shoreland area, by reason of enforcing the requirements of Section 5 (e.g., setbacks from public waters, and Sections 5.3.2.7 and 5.3.2.8.).
- c) A site development permit is required whenever any Structure alters the status of an Assessor's Parcel of Record from an Undeveloped Lot to a Developed Lot, by reason of determining possible SSTS requirements.
- d) A site development permit is required for all new Residential structures by reason of enforcing the standards of Section 3.5.3, and to any existing Residential structure served either by a Type I SSTS or a holding tank, if a bedroom is being added to the property.
- e) A site development permit is required for all Mobile Homes and Manufactured Homes, both as a Residence and as a Accessory Structure, by reason of enforcing the standards of Section 3.5.3.
- f) Otherwise, a site development permit is required only when the collective improvement(s) over any contiguous five-year period increases the assessed property tax valuation by \$2,500.00 or more.

All Minor Construction that does not require a Site Development permit must still conform to all setback and other provisions of this ordinance. A temporary storage facility used for one year or less, and used only to store construction materials for a future Structure which will require a Site Development permit, is exempt from needing a Site Development permit; but any such temporary structure left in place for more than one year shall require a Site Development permit, and must thereupon comply with all standards of this ordinance.

3.5.2 PROCEDURE FOR PERMITS

Applications for a Site Development permit are made as directed in Section 3.4. Those involving Nonconformities shall consider Section 1.6. All lands subject to township subdivision regulations that were divided but not approved by the township shall not be eligible for Site Development permits until the subdivision conforms to the standards of this ordinance. When an application involves a change in status from an Undeveloped Lot to a Developed Lot, or when an already Developed Lot does not have any SSTS at all, an SSTS permit application must also be filed along with the Site Development permit application. The Zoning Administrator may refer such matters to the Planning Commission for interpretations.

For situations described in Section 3.6.5.1, a Compliance Inspection shall be required prior to approval of the Site Development permit. Any SSTS that fails the inspection must be upgraded. In situations where an SSTS permit is required but cannot be issued because of seasonal conditions (November 1 to April 30), a conditional Site Development permit shall be recorded with the Pine County Recorder indicating this linkage as a condition of the permit.

Once the Site Development permit is issued, the Zoning Administrator may delegate the onsite inspection(s) to other qualified persons. Any member of the Arna Town Board may also make inspections. Permits in the jurisdiction of the Department of Interior shall not be approved without evidence of an approved scenic easement.

3.5.3 SITE DEVELOPMENT PERMIT STANDARDS

- 3.5.3.1 All Residences must have a minimum habitable area of 400 square feet, inclusive of upper stories and basements; but porches and other outdoor features shall not be included as a contribution to the size. Once a fully compliant Residence has been established on the property, subsequent detached bedrooms, bunkhouses, and other like residential structures are exempt from the 400 square foot requirement.
- 3.5.3.2 All Residences shall have a foundation that is constructed using one of the following methods, and placed on undisturbed ground or stabilized fill. All wood within six (6) inches of ground level shall be treated for rot resistance. Foundations where the ground slopes more than one (1) foot in ten (10) feet shall be level, or stepped, so that both the top and bottom of the foundations are level.
- a) A continuous footing of at least six (6) inch depth by twenty (20) inch width with at least two (2) one-half inch reinforcing rods laid in it.
 - b) Pier foundations shallower than frost level (42 inches), must rest on three (3) foot by three (3) foot mesh reinforced slabs at least six (6) inches thick. The maximum span between piers is twelve (12) feet.
 - c) All piers that extend below frost level (42 inches), must be at least five and one-half (5 1/2) inches in diameter. The maximum span between piers is eight feet. No pad at the base of the pier is required.
 - d) Slab foundations shall be four (4) inches thick and mesh or rebar reinforced, with a minimum of a six (6) inch wide trench around the perimeter. At least one (1) one-half inch-reinforcing rod shall be used around the perimeter.
 - e) An alternative foundation may be proposed, if sufficient detail is provided to evaluate the effectiveness of that alternative.
- 3.5.3.3 All Mobile Homes and Manufactured Homes shall be anchored to the ground according to recommended H.U.D. standards (with a minimum of four), and shall also conform to all other standards of Section 3.5.3.
- 3.5.3.4 No construction of either Residences or Accessory Structures shall be allowed on poorly drained or structurally inadequate soils unless the hazard is eliminated, and any new construction shall not obstruct a solar energy device.

3.6 SUBSURFACE SEWAGE TREATMENT SYSTEMS (aka SSTS)

3.6.1 GENERAL REQUIREMENTS

Every Developed Lot must be provided with an adequate method of sewage disposal that is designed, installed, and maintained in accordance with the provisions of the Mn PCA Rules listed in Section 1 of this ordinance. Except for Minor Repairs, any person who wishes to construct, re-work, re-construct, or alter any existing SSTS or portion thereof must make an application for an SSTS permit as described in Section 3.6.2 and Section 3.4. Persons who are allowed to design, install, inspect, and maintain SSTS are regulated according to the standards of Section 3.6.3, as well as all other standards of this ordinance. Inspection protocols are described in Section 3.6.4, as well as in Section 3.4.

The following examples of various SSTS that are covered by this ordinance are:

- a) Standard At Grade & Mounded SSTS designed and inspected by licensed businesses.
- b) Holding tanks monitored or maintained by a contract with a licensed maintenance person.
- c) Privy with an open pit as long as the bottom of the pit is three (3) feet or more above saturated soil or bedrock. Open pit privies are not permitted in a Shoreland or in Zone A.
- d) Privy with a sealed tank are allowed in Shoreland areas, Zone A, areas not meeting the three foot separation, or anywhere else.
- e) Graywater systems – for developed lots having a primitive dwelling using hand-carried water (hand carried either because there is no plumbing, or because there is no well).
- f) Custom designed systems (see definitions for Type III, Type IV, and Type V systems) and MSTs, which require (except for a Type III system) an Operating permit.
- g) Minor and temporary systems such as satellites, composting toilets, and combustible waste systems (see the definition of Developed Lot, context #2).

3.6.1.1 Where a single SSTS, or group of SSTS under single ownership within one-half (1/2) mile of each other have a design flow of greater than 10,000 gallons per day, the owner(s) shall make an application for and obtain a State Disposal System permit from the Mn PCA.

3.6.1.2 It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minnesota Rules 4725.2050, or any other excavation in the ground that is not in compliance with this ordinance.

3.6.1.3 Owners of Class V wells must submit inventory information to the U.S. Environmental Protection Agency (EPA), and identify such wells in property transfer disclosures.

3.6.1.4 SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain shall be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minnesota Rules, Chapter 7080.2270 and all other relevant requirements are met.

3.6.2 PROCEDURE FOR PERMITS

An application for an SSTS permit is made as directed in Section 3.4. Additional requirements for Operating permits are described in Section 3.6.6. Permits involving Nonconformities shall consider Section 3.6.5. All lands subject to township subdivision regulations that were divided and sold, but not approved by the township, shall not be eligible for SSTS permits until the subdivision conforms to the standards of this ordinance via the permitting process.

Permit applications shall be made only on forms provided by the township. Applications must conform to the standards adopted in Section 3.6.3, paying particular attention to the designer's license number and expiration date, the Phase I site evaluation reports in conformance with Rules 7080.1730, the Phase II design reports in conformance with Rules 7080.2430, and a Management Plan in conformance with Rules 7080.0600. The Zoning Administrator shall process the application according to current standards, and when applicable, shall not issue a permit until the Township Inspector has reviewed and approved the application.

With the exception of an Imminent Threat to Public Health and Safety, which involves 10 months to abandon or repair, all permits are valid for a period of one (1) year. The Planning Commission shall investigate whether permits whose terms expire without the final approval of the project (see Section 3.6.3.6) constitute a violation of this ordinance. The Zoning Administrator shall delegate inspections to a qualified person (i.e., Township Inspector). The final approval of the permit is not given or implied until all appropriate inspections have been made (see Section 3.6.4). The final stroke of approval shall be represented by the issuance of a Certificate of Compliance by the township. No SSTS shall be placed into operation until this certificate has been received.

3.6.3 SSTS PERMIT STANDARDS: All SSTS must meet or exceed the following standards:

3.6.3.1 Except as provided elsewhere in Section 3.6, every SSTS must be designed, inspected, pumped, installed, and/or repaired by persons having Mn PCA licensing if a business, be an appropriately licensed and qualified employee of the township, or be a person exempted under Rules 7083.0700. Additionally:

- a) All standard systems (3.6.1.a) must follow Design Phase I (7080.1730) and Design Phase II (7080.1750) criteria as part of the permitting process, as well as all other relevant standards and regulations. Minimum design flow standards shall be those indicated under Rules 7080.1860 Table IV for Class I dwellings, but when the number of bedrooms exceeds six, the design flow shall be calculated by multiplying the number of bedrooms by 150 gallons. The hydraulic loading rates found in Tables IX and IXa of Rules 7080.2150Subp. 3(E) are also hereby adopted.
- b) Property owners who install a standard system (3.6.1.a) on their own property must have an appropriately licensed person perform the SSTS Design Phase I and Design Phase II portions of the application.
- c) All holding tanks (3.6.1.b) are valid solutions where 1) there is an Imminent Threat to Public Health and Safety, 2) where it can be conclusively shown that a Type I

system is not feasible, or 3) where water use is low, such as for seasonal Residences. Holding tanks must meet the provisions of Rules 7080.2290, including monitoring and pumping provisions.

- d) All privies (3.6.1.c and 3.6.1.d) must meet the provisions of Rules 7080.2280. When a well serviced by an electric pump is installed on the property, a holding tank or better must be installed. Compliant privies need not be abandoned.
- e) Graywater systems (3.6.1.e) must meet the provisions of Rules 7080.2240. Since Subp. 2 of this regulation prohibits toilet waste from entering a graywater system, all Developed Lots installing a graywater system, must also have an approved SSTS for human waste disposal.
- f) Custom built systems (3.6.1.f) must meet the provisions of Rules 7080.2300, 7080.2350, 7080.2400, or all of Rules 7081, including Operating permit requirements (Section 3.6.6), except that Type III systems do not require an Operating permit.
- g) Minor systems (3.6.1.g) do not require a permit, or installation and design by a licensed person, but sufficient information must be provided that the requirements for handling human waste as set forth in this ordinance is satisfied.
- h) Property owners who install any SSTS must also separately sign the acknowledgment statement on the permit application that informs them of the possibility of additional inspection fees where re-inspection(s) become necessary due to a lack of training or repeatedly failed inspections.

3.6.3.2 Open pit privies (3.6.1.c) are not allowed in Shoreland areas, or in Zone A.

3.6.3.3 All privies (3.6.1.c and 3.6.1.d) in Zone A must be screened from public view.

3.6.3.4 All SSTS must be set back from the ordinary high water level of public waters by the distances specified in Section 5.3.2.2 of this ordinance.

3.6.3.5 The discharge of sewage to the ground surface shall not occur without a National Pollutant Discharge Elimination System permit. Otherwise, all SSTS that represent an Imminent Threat to Public Health and Safety (7080.1500 Subp. 4A) must be upgraded or abandoned within ten (10) months of notification of non-compliance. Other Nonconforming SSTS shall be regulated and upgraded in accordance with Section 3.6.5 of this ordinance.

3.6.3.6 **TIME LIMITS:** All systems other than under Section 3.6.3.5 that are not completed within one (1) year of the permit being issued are considered to be in violation of this ordinance. See Section 3.6.2. However, it is not a violation to simply abandon all plans to construct a new SSTS when either the lot reverts back to the status of an Undeveloped Lot, or an acceptable alternate method of disposal has been adopted.

3.6.3.7 VIOLATIONS: It is a violation of this ordinance to alter an approved SSTS design, including but not limited to the SSTS location, without express permission by way of a township-approved amendment to that design. Doing so may incur a penalty, as well as the revocation of either the permit, or any relevant certificate of compliance.

Generally, the provisions of Section 8.3 shall be used to enforce violations as appropriate, but whenever any work is being conducted either without a permit, or in cases of severe violations of the terms of a permit, then the township may at its discretion, either verbally or in written format, order a Work Stoppage or a Cease & Desist order. The order may be served either upon the property owner or the installer. Work shall not resume until the order is lifted. In accordance with state law, the township shall notify Mn PCA of any violations on the part of a Mn PCA licensed persons. When possible, disputes shall be resolved using the Dispute Resolution process in Section 3.6.4.

3.6.3.8 MAINTENANCE: Property owners should perform the regular three-year maintenance cycle and other provisions of Rules 7080.2450 where qualifying SSTS exist. In circumstances where tanks exist in remote areas not accessible to maintenance trucks, the owner must request approval for land application of waste under the provisions of Section 3.6.3.9. Copies of receipts for pumping that occurs sooner than the scheduled three year cycle may be sent to the Zoning Administrator to update township records for notices for subsequent notification cycles. Any SSTS needing repair shall be identified by the licensed maintenance or service provider, reported to the township in a timely manner, and shall require fixing within one year. SSTS that remain faulty after one year shall be deemed in violation of this ordinance.

3.6.3.9 SEPTAGE ON LAND: Septage, as defined in Rules 7080 or successor rules, shall be pumped, managed, land applied or disposed of at an Mn PCA permitted wastewater treatment facility in accordance with applicable state and federal laws, including Environmental Protection Agency rules as found in 40 CFR part 503 entitled “Standards for the Use of Sewage Sludge”, and Minnesota Rules Chapter 7080. No sludge or septage shall be accepted for disposal from sources outside of Arna Township. Disposal of septage on any land in Arna Township shall require a permit. The separation requirements are:

- a) 25 feet for public and private ditches
- b) 200 feet for private water wells and occupied buildings
- c) 300 feet for rivers or streams
- d) 1000 feet for municipal water wells
- e) 1000 feet for lakes

3.6.3.10 ABANDONMENTS: Abandonments can arise for a number of reasons. Systems with no future intent for use shall be abandoned. Abandonment may also be an option resulting from a failure to pass a Compliance Inspection under Section 3.6.5, or a possible solution to an Imminent Threat to Public Health and Safety. If the abandonment is on a Developed Lot and would result in no SSTS on that lot, a new

SSTS must also be installed as a replacement to the abandoned SSTS, or else the necessary actions must be taken to revert the lot back to an Undeveloped status.

Abandonments must follow the procedures of Rules 7080.2500, and be pumped by a licensed Maintenance person. Either a licensed contractor or the property owner may perform the abandonment and file a report within ninety (90) days containing the parcel number and sufficient details about the abandonment that the township can determine conformity with the rules. If the Township Inspector believes the abandonment is faulty, then the licensed contractor or property owner shall be notified of the relevant details. When the township is satisfied that all requirements have been met, an Abandonment Certificate will be issued to either the property owner or the licensed contractor. In both cases of approval and non-approval, notification shall be sent within 60 days of the receipt of the report.

- 3.6.3.11 AMENDMENTS: Amendments may be made to designs after permits have been issued, but shall require review and approval under all the same conditions and regulations as the original permit application, including Management Plans. Changes shall not be physically installed until the amendment has received approval. Both approvals and denials of the amendment shall be made in writing by the township, and in the case of denials, a reason shall be given.
- 3.6.3.12 MANAGEMENT PLANS: Management Plans must be submitted for SSTS listed in Rules 7082.0600 Subp. 1A, and must include the information indicated in Rules 7082.0600 Subp. 1B. Management Plans are documents that inform and remind the owner of an SSTS what routine actions are necessary to extend the life of his/her SSTS by keeping it in properly functioning order. Management plans are submitted along with permit applications, and are typically provided for the property owner by the licensed designer of the SSTS. In cases where Privies or other owner-designed SSTS are allowed, the township may have sample Management Plans available that assist the applicant so he can submit his/her plan along with the SSTS application.
- 3.6.3.13 VERTICAL SEPARATIONS: Vertical separation determinations for legacy SSTS may make allowance for the fifteen percent (15%) settling of soils over time.
- 3.6.3.14 VARIANCES: Variances shall be applied for as indicated under Section 6 of this ordinance. Additional conditions specific to variances for SSTS issues are:
- a) The Arna Board of Appeals shall have the authority only to consider variances to horizontal setbacks from property lines, rights of way, Structures, or buildings.
 - b) Variances that pertain to the standards and requirements of the State of Minnesota shall be approved by the affected State Agency pursuant to their requirements.
 - c) Variances to wells and supply lines must be approved by the Mn Dept of Health.
 - d) Requests to deviate from design flow regulations under Rules 7081.0110 from over 10,000 gallons per day to less than 10,000 gallons per day, and requests to deviate from the vertical separation under Rules 7080.2150 Subp. 2, and Rules 7081.0080 Subp. 2 to 5 must be approved by Mn PCA.

3.6.4 NEW SSTS COMPLIANCE INSPECTIONS

3.6.4.1 All provisions of an Inspection Program following Rules 7082.0700 are hereby adopted by reference. As is practical, the broad guidelines of Section 3.4.8 shall be followed, unless specifically stated differently in this section. The various types of SSTS inspections and inspection schedules cited in this ordinance are:

- a) **Design Inspection** – prior to the installation of any SSTS components, drainfield sites are required to have two independent determinations of soils performance data; one performed by a licensed SSTS Designer hired by the property owner, and one performed by the Township Inspector.
- b) **Construction Inspection** – is an inspection by the Township Inspector that confirms that the SSTS was actually installed in the manner indicated on the permit application. Frequently, the next step after a successful construction inspection is to cover the SSTS components with earth.
- c) **Landscaping Inspection** – is an inspection by the Township Inspector that needs to be performed after the Construction Inspection due to issues of topsoil erosion or grading that exists for mounded and other similar systems.
- d) **Abandonment Inspection** – is a tank pumping, demolition, and certification by a Mn PCA licensed person or property owner. See Section 3.6.3.10.
- e) **Compliance Inspection** – is an inspection by any licensed Inspector who attempts to determine if an existing SSTS is in compliance with current Mn PCA standards. Refer to Section 3.6.5 for information specific to Compliance Inspections.
- f) **Maintenance Inspection** – is an inspection done by a licensed maintenance or service provider business (a pumper) hired by a property owner, and performed as a part of the routine three-year tank maintenance cycle.
- g) **Operating permit** – the permit is not permanent - a recurring renewal is required
- h) **Re-Inspection** – is the extra fee a property owner may incur if he decides to install his own system.

SSTS TYPE Or ACTIVITY PROPOSED	INSPECTION TYPE	INSPECTION PERSON	PERMIT (see Table 3.4.9)	OWNER CAN DESIGN
At Grade systems & Type III	a & b	Township	yes	no
Mounded systems	a & b & c	Township	yes	no
Holding tanks	b	Township	yes	no
Privies & Graywater systems	b	Township	yes	yes
Type IV, V, MSTs systems	b & g	Township	yes	no
Minor systems			no	yes
Minor repairs			no	
Abandonment reports	d (not an insp)	your choice	no	
Permit to Apply Septage on Land			yes	
Existing SSTS Compliance Insp.	e	your choice	no	
Routine Maintenance	f	your choice	no	

NOTE: Under this ordinance, the term “Compliance Inspection” (Section 3.6.4.1.e) refers only to inspections of existing SSTS. For new SSTS, the so-called Compliance Inspection is effectively the same thing as the final inspection (usually what we call

the Construction Inspection). Despite varying terms, it is always the inspection that earns final certification.

- 3.6.4.2 Inspections Required: Inspections are required for all new and existing SSTS as specified in Section 3.6.4.1.
- 3.6.4.3 Failed Inspections for new SSTS: Failures of Design, Construction, and Landscaping Inspections shall require Re-Inspection in kind, along with an additional fee as set by the Arna Town Board, unless differences can be ironed out using the procedures of Section 3.6.4.6. If not, the allotted time until the next Re-Inspection shall follow the guidelines of 3.6.4.5, but should that procedure fail, then the Township Inspector shall follow the procedures of Rules 7082.0700 Subp 3 to notify both the Zoning Administrator and the property owner. The standards of Section 3.6.3.6 and Section 3.6.3.7 shall be employed with the notice.
- 3.6.4.4 Failed Inspections for existing SSTS: Failures of Compliance and Maintenance Inspections shall be resolved in accordance with the provisions of Section 3.6.5.
- 3.6.4.5 Times for Inspections: Inspections shall be conducted at times mutually agreed upon between the permit holder seeking the inspection or his/her agent, and the Township Inspector. In cases of Construction Inspections, where the installer is an Mn PCA licensed business, if the Township Inspector is more than two (2) hours late for the inspection appointment, the installer may either reschedule an inspection, or submit photos of all components of the system within five (5) days to serve as an As-Built record, together with a signed certification that the work was installed in accordance with the approved design, and that the components are free from defects.
- 3.6.4.6 Dispute Resolution: Whenever the Township Inspector finds any component, design parameter, or other factor sufficient to reject an approval under his/her responsibility, then the property owner or his/her agent shall be notified of the details of the defect, either verbally or in writing, along with the time period in which corrective action must be taken. If the matter can be resolved mutually without an additional on-site inspection, then additional inspection fees shall not be required. For issues of depth to redoximorphic features, the Arna Town Board may establish a more formal dispute resolution process if it deems that to be appropriate.
- 3.6.4.7 Conflicts of Interest: The Township Inspector must be independent from the property owner and installer hired by the property owner. The allowances and restrictions of Rules 7082.0700 Subp 2B also apply.
- 3.6.4.8 Certificates of Compliance: All Certificates of Compliance for new systems shall be signed by the Township Inspector, and sent to the Zoning Administrator within fifteen (15) days of the date of compliance. Certificates of Compliance shall follow the guidelines of Rules 7082.0700 Subp 3 for new SSTS (on forms developed by the township), and according to Rules 7082.0700 Subp 4 for existing SSTS (on forms developed by Mn PCA). Certificates shall be valid for a period of five (5) years for a new SSTS, and for a period of three (3) years for an existing SSTS. The Zoning Administrator shall add any pertinent information regarding other provisions of this

ordinance that are relevant to the SSTS, and send the certificate to the landowner within fifteen (15) days of receipt from the Township Inspector.

Certificate of Compliance shall not be construed to represent a guarantee or warranty of an SSTS's operation or effectiveness. Such certificates merely signify that the system in question is or has been designed and installed in compliance with the standards and regulations of this ordinance.

3.6.5 EXISTING SSTS COMPLIANCE INSPECTIONS

Together with the inspection criteria covered in Section 3.6.4, this section describes how nonconformities shall be handled. Nonconforming SSTS are defined in Section 2. The prevention of potential future nonconformities are also covered in this section. An example of such a situation involves a Site Development permit for the addition of a bedroom, even though the existing SSTS is known to be compliant at the time the permit is applied for.

Any SSTS that was issued a permit and was installed and inspected properly according to the terms in effect at the time of installation shall not be considered nonconforming merely due to a change in subsequent regulations. For example, the DNR Shoreland setback was once 75 feet, but was subsequently changed to 100 feet. A system built properly when the standard was 75 feet shall not be considered nonconforming today simply because it is now less than 100 feet from the river. Mn PCA Rule 7080.1500 Subp. 4, Items D & E, which distinguishes different standards for systems built before or after April 1, 1996, is another example of this type of distinction.

3.6.5.1 When Required: The requirement to upgrade an existing SSTS shall apply to all areas of Arna Township, and refusal to do so shall be a violation of this ordinance. The need to replace an SSTS shall rely on the results obtained from a Compliance Inspection (3.6.4.1.e) performed by any properly licensed SSTS Inspector, using Mn PCA forms, and the standards of Rules 7082.0700 Subp 4. Such inspections may be triggered:

- a) When a complaint that has merit is received from the public.
- b) Upon receipt of a failing Maintenance Inspection report (see 3.6.4.1.f).
- c) Whenever there is some ordinance driven reason to question the performance of a SSTS. E.g., see Section 3.2.5.4 concerning excessive Residential Density, or Section 4.1.3 h) concerning the subdivision of land.
- d) For the Point of Sale program at the time the property is sold (see 3.6.5.3.a).
- e) For the addition of a new bedroom, whether attached or detached from the main Residence, unless records show that the SSTS was over-built sufficiently to accommodate the increased demands of the additional bedroom(s).
- f) By any Site Development permit application for a Residential structure, where an SSTS was originally installed with no permit whatsoever.
- g) Whenever part of a Nonconforming SSTS is either repaired or expanded (but not for Minor Repairs).
- h) As a condition of an Operating permit (e.g., Section 3.6.6.8).

3.6.5.2 Inspection Results: After the Compliance Inspection has been performed by the SSTS Inspector, the completed Mn PCA forms shall be signed and sent to the Zoning Administrator within fifteen (15) days. If the SSTS has been determined to be compliant, the same procedures as in Section 3.6.4.8 shall be used. Otherwise, a Notice of Noncompliance shall be sent to the property owner within fifteen (15) days of receipt from the SSTS Inspector, stating the reason for the noncompliance, and what must be done to correct the situation. The available solutions depend on the trigger that initiated the inspection in the first place:

- a) Point of Sale issues shall follow the procedures of Section 3.6.5.3.
- b) Excessive Residential Density issues shall follow Section 3.2.5.4.
- c) For the addition of a new bedroom, a solution might involve reducing the number of bedrooms, or dropping the project altogether.
- d) Sometimes, SSTS abandonment under Section 3.6.3.10 might be an option.
- e) In certain situations, an Undue Hardship may exist for a variance.
- f) Most other cases would involve a violation of this ordinance, where the procedures of Section 8.3 would be followed.

Regardless, systems that fail to protect the groundwater must be upgraded or abandoned within 12 months.

3.6.5.3 Point Of Sale Program:

- a) Properties with a privy (see 3.6.3.1 d)) and a well serviced by an electric pump are noncompliant with this ordinance unless they have a holding tank, and require upgrading at the time the land is sold.

Otherwise, parcels exempt from the Point of Sale program are:

- Undeveloped lots
- Transfers of land not requiring the filing of a CRV under Minnesota Statutes 272.115 Subd 1
- Transfers of land intended solely for the purpose of correcting title
- Transfers that complete a Contract for Deed entered into prior to the effective date of this ordinance, including pertinent predecessors
- Any property where a currently valid Certificate of Compliance is in effect

For non-exempt parcels, prior to recording the property title transfer or contract for deed, the seller or sales agent shall have a Compliance Inspection performed in order to determine the condition of the SSTS on that property. Both Arna Township and all prospective buyers shall be notified of the results of the Compliance Inspection, including upgrading requirements, if any.

- b) If the system is found to be nonconforming, either the seller can fix the system before the land is sold, or the buyer and seller can enter into a written agreement spelling out who will make the repairs. If an agreement is made, a copy of the contract must be submitted to the Zoning Administrator before the land is sold.

- c) In the period from November 1 to April 30, if a Compliance Inspection cannot be made because of seasonal conditions, then a contract must be made including at least one estimate from a licensed SSTS person on the costs of construction of a proper system, and set up an Escrow Account, a bond, an Irrevocable Letter of Credit, or similar financial instrument, in an amount of 150% of the estimate, to be used in the event the system needs to be brought into compliance. The account shall be established in a financial institution mutually agreed upon, and shall be jointly controlled by the seller and the buyer. All costs associated with the repair or replacement of the system shall be provided for in the agreement, a copy of which is submitted to the Zoning Administrator. Any required Compliance Inspection shall be made by the following June 1st.

3.6.6 OPERATING PERMITS

An Operating Permit shall be required of all installations of Type IV, Type V, MSTs, or any other system deemed by the township to require operational oversight. Sewage shall not be discharged to any such SSTS until the township certifies that it was installed in conformance with the approved plans, and a valid Operating permit has been issued.

3.6.6.1 Applications: An application for an Operating permit shall be made on the form provided by the township as described in Section 3.4, but also including:

- a) The Construction permit reference number and date of issue
- b) Final record drawings of the treatment system

3.6.6.2 Nonconformities: Any SSTS subject to the provisions of Section 3.6.6 existing prior to the effective date of this ordinance shall require an Operating permit upon transfer of ownership, replacement, any modification or expansion that requires a permit, or following any SSTS enforcement action.

3.6.6.3 Approval: The Township Inspector shall review the record drawings, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the Operating permit shall be denied until the deficiencies are corrected to the satisfaction of the township. If the submitted documents fulfill the requirements, the township shall issue an Operating permit.

3.6.6.4 Permit Information: The Operating permit issued by the township shall include all the necessary information listed in Rules 7082.0600, Subp. 2. B.

3.6.6.5 Terms: Operating permits shall be valid for the specific term stated on the permit as determined by the township.

3.6.6.6 Renewals: An Operating permit must be renewed prior to its expiration. If not renewed, the township may require the system to be removed from service and not operated until the permit is renewed. If not renewed within ninety (90) days of the expiration date, the township may require that the system be abandoned in accordance with Section 3.6.3.10.

- a) The township shall notify the holder of an Operating permit at least ninety (90) days prior to expiration of the permit. The system owner must apply for renewal at least thirty (30) days before the expiration date.
- b) Renewal applications are made on a form provided by the township showing:
 - 1) The applicant's name, mailing address, and phone number
 - 2) The reference number of the previous owner's Operating permit
 - 3) All outstanding Compliance Monitoring reports as required by the Operating permit
 - 4) A certified treatment system inspection signed and/or sealed by a certified designer, maintenance contractor, or operator
 - 5) Any revisions made to the operation and maintenance manual.
- c) Payment of the application review fee as determined by the township.

3.6.6.7 Amendments: The township may not amend an existing permit to reflect changes in this ordinance until the permit term has expired and is renewed, unless an amendment is necessary to eliminate an Imminent Threat to Public Health or Safety.

3.6.6.8 Transfers: The Operating permit may not be transferred. A new owner shall apply for an Operating permit in accordance with Section 3.6.2 of this ordinance. The township shall not terminate the current permit unless an Imminent Threat to Public Health or Safety exists. To consider the new owner's application, the township may require a Compliance Inspection of the treatment system certified by a licensed inspector or qualified employee.

3.6.6.9 Suspensions and Revocations: Operating permits may be suspended or revoked under the following conditions:

- a) For any false statements or misrepresentations of facts on which the Operating permit was issued
- b) The reason(s) for revocation shall be conveyed in writing to the owner

- c) If suspended or revoked, the township may require that the treatment system be removed from service, operated as a holding tank, or abandoned in accordance with Section 3.6.3.10
- d) At the township's discretion, the Operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions

3.6.6.10 Compliance Monitoring:

- a) Performance monitoring of an SSTS shall be performed by a licensed inspection business or licensed service provider hired by the holder of the Operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.
- b) A Monitoring report shall be prepared and certified by the licensed inspection business or licensed service provider. The report shall be submitted to the township on a form provided by the township on or before the compliance reporting date stipulated in the Operating permit. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:
 - 1) The owner's name and address
 - 2) The Operating permit number
 - 3) The average daily flow since last compliance monitoring report
 - 4) A description of type of maintenance, and the date performed
 - 5) A description of samples taken (if required), analytical laboratory used, and results of the analyses
 - 6) Any problems noted with the system and actions proposed or taken to correct them
 - 7) The name, signature, license, and license number of the licensed professional who performed the work

3.7 CONDITIONAL AND INTERIM USE PERMITS

The uses listed in this ordinance as Conditional or Interim Uses shall be permitted only upon the application for, and the granting of a Conditional or Interim Use permit. It is important to remember that these uses only require a permit when that activity is being conducted as a business. For example, if your hobby is to run dog sleds for yourself, no permit is required if you have dog kennels. If you rent dog kennel space to others as a business, then a permit is required.

3.7.1 LIST OF CONDITIONAL AND INTERIM USES

There are four zoning districts in Arna Township. The following list identifies the district names, and ordinance section where the list of Permitted Uses, Conditional Uses, Interim Uses, and Prohibited Uses can be found for each district. These different sections also provide the district geographical boundaries and regulations applicable to each zone. Any Use that is not listed is not allowed. Relevant definitions can be found in Section 2.

- a) TOWNSITE AREA – ZONE A: see Section 3.2
- b) RURAL AREA – ZONE B: see Section 3.3
- c) SPECIAL PROTECTION SHORELAND AREA (SP): see Section 5.2.1
- d) RESIDENTIAL RECREATIONAL SHORELAND AREA (RR): see Section 5.2.2

3.7.2 APPLICATION PROCEDURES

Both Conditional and Interim Use permits are processed following the general procedures that are described in both Section 3.4, and in Section 3.7.3 below. Applications shall provide a minimum of the following information as it pertains to each particular Use. The Township encourages inquiries if there are any questions about the following details:

- 3.7.2.1 A plan or map of the area showing surface contours in two (2) foot elevations (e.g., LIDAR topographic information), soil types, wetland reports, floodplain and ordinary high water levels in shorelands, unusual ground water conditions and bedrock formations shallower than five (5) feet, and a brief narrative of the vegetative cover over the entire property. If any structures, driveways, or other such items are proposed in a Shoreland area, then include the minimum setback line(s) (see Section 5.3.2.2 and Section 5.3.2.3) along with the above requisite contour map data, such that the application can be evaluated for those factors.
- 3.7.2.2 Show the location and gross dimensions of all buildings, piers, parking areas, traffic access, driveways, storage areas for business resources, designated open spaces, picnic, playground, and/or any other such designated special general use areas, and necessary landscaping for the project. If the project involves individual rental units or subunits of land and/or buildings, include enough information to determine the circumstances for every unit.

3.7.2.3 General plans of SSTS facilities, water supply systems, electrical availability, and plans for any other such utilities. Demonstrate that the property can accommodate all such needs. For example, for Type I SSTS facilities, soil-boring results are sufficient at this stage, without all the total system design specifications.

3.7.2.4 A description of:

- a) The conditions of operation, such as the daily hours of operation and the days of operation (M to F only, weekends only, seasonally, all year long)
- b) Rental terms (if any), like memberships, or available rental periods
- c) Activities that generate significant noise, dust, odors, and so forth
- d) The approximate number of expected employees
- e) Information about signage for customers
- f) Excessive night lighting in residential areas
- g) Any other voluntary information that would help the township understand the nature of the project

3.7.2.5 Specifications for any areas that may need to be filled or graded, or require lagooning or dredging.

3.7.2.6 For Interim Use permits, the date the applicant proposes as the date when the use will cease.

3.7.2.7 The legal description of the property, and the signature of all landowners of the property where the proposed use will be located (joint tenants, tenets in common, contracts for deed, and so forth).

3.7.2.8 The applicant's knowledge of any Federal, State of Minnesota, or Pine County permits or licenses that would be needed for the proposed use.

3.7.2.9 Any other information necessary to determine if the proposed use meets the various requirements found in other sections of this ordinance.

3.7.3 TOWNSHIP PROCESSING PROCEDURE

- a) Upon receipt of a Conditional or Interim Use application, the Zoning Administrator shall review it as described in Section 3.4.2. If the application involves any of the concerns described in Section 3.4.6 or other relevant Minnesota Statutes, then the Zoning Administrator shall determine the amount of the bond with advice from the Town Board and/or the township attorney. Such requirements shall then be explained to the applicant in writing, who may withdraw the application. As explained in Section 3.4.6, the application is not considered complete until an escrow is posted with the Township.
- b) Next, the Zoning Administrator shall cause any requisite studies from the above review to be performed. Once these studies have been completed, if the results indicate that the project must be terminated or substantially altered, then the applicant shall be notified of the results in writing. Once the impacts determined by the study(s) are known, the applicant may withdraw their application at that point.

- c) If the process is to continue, additional escrow amounts may be required as determined by the results of such studies. Next, the Zoning Administrator shall file the matter for a public hearing in accordance with the requirements of Minnesota Statutes 462.357 Subd. 3. Both the applicant and other property owners within one-quarter (1/4) mile of the property being considered shall be mailed a notice of the public hearing. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested by the Zoning Administrator, and shall be made a part of the record of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to send the notices was made.

- d) At the public hearing, the Planning Commission shall hear testimony given either in writing or orally, and consider the application in regard to the various conditions specified in Section 3.7.4, as well as any of the requirements that are listed elsewhere in this ordinance, such as but not limited to Site Development standards, SSTS standards, Shoreland considerations, Subdivision standards, potential nuisance conditions, needs for privacy screening, and any potential hazards. Because the Planning Commission may discover new facts, concerns, or other information at the public hearing, they may request additional information from the applicant or other sources, such as testimony from professionals in order to help establish acceptable operating conditions and/or performance standards. If necessary, the public hearing may be recessed to a future date in order to have the time to gather such additional information as deemed necessary, prior to resuming the hearing.

- e) As soon as practical after the public hearing, the Planning Commission shall make a Findings of Fact in order to determine whether to allow or disallow the use. The decision and notification(s) shall be made in accordance with the guidelines of Section 3.4.5. No Conditional or Interim Use permit may be approved unless the following minimum Findings have been made in the affirmative:
 - 1) The proposed use has been considered in relation to the specific policies and provisions of, and has been found to be consistent with the Arna Township Comprehensive Plan.
 - 2) The proposed use conforms with all setbacks and other performance standards contained in this ordinance.
 - 3) The proposed use will not allow activities disallowed by other Township ordinances.
 - 4) The proposed use is or will be compatible with present and future known planned uses near the area.
 - 5) The proposed use will not depreciate property values anywhere within the Township.
 - 6) The proposed use will not compromise existing public services and resources such as mail delivery, trash collection, availability of drinking water, public surface water quality, and other such considerations, and will not overburden such existing capacities.
 - 7) Traffic generated by the proposed use is within the capabilities of all public roads serving the property.

Consideration shall also be given to the issues addressed in Section 3.7.4. If the use is to be allowed, the Planning Commission shall then create the applicable set of Conditions

of Operation that it believes should be attached to the permit. In consideration of Item g) that follows, the Zoning Administrator shall then inform the applicant, in writing, of the denial or approval of the application, and if approved, include the relevant Conditions of Operation.

- f) If the permit is for an Interim Use permit, the applicant shall sign the township form that they accept the terms of the permit (Minnesota Statute 462.3597 Subd. 2, (4)). Refusal to sign shall negate the permit. In some situations, uses shall not begin until additional requirements are met. For example, restaurant construction under a CUP may not begin until a permit has also been obtained from the Minnesota Department of Health.
- g) When a permit is approved within a Shoreland area, the Commissioner of the DNR shall be mailed a copy of the permit ten (10) days prior to the effective date of the permit. Also, Conditional and Interim Use permits shall be recorded with the Pine County Recorder.
- h) If within one (1) year after the effective date of a Conditional or Interim Use permit, the implementation of it has not substantially begun, then such permit shall become null and void unless the Zoning Administrator has granted a written extension of time in which to complete the work. Such time extensions must be requested in writing at least thirty (30) days prior to the date of expiration. The request shall state any reasons in support of granting the request. Time extensions may be requested only one time for any permit.
- i) Conditional and Interim Use permits are subject to periodic audits for compliance, either annually, or more often if and when complaints are received from the public. A violation of any terms of a Conditional or Interim Use permit may be cause for revocation of that permit, as well as a penalty. Alleged violations shall be handled in accordance with the provisions of Section 8.3, and any other applicable state laws.
- j) Any Conditional or Interim Use permit that is not in use for twelve (12) continuous months shall be deemed abandoned, and shall automatically expire at the end of said twelve-month period.
- k) Upon the lapse of a Conditional or Interim Use permit by revocation, abandonment, by non-renewal, or for any other reason, that nullification shall be filed at Pine County Recorder's office.

3.7.4 REVIEW CRITERIA

In addition to the factors, concerns, standards, and regulations contained elsewhere in this and other Township ordinances, the following shall also be considered when developing the Findings of Fact and the list of Conditions of Operation that are attached to Conditional and Interim Use permits:

- a) The compatibility of the proposed use to the Arna Township Comprehensive Plan and all Township ordinances
- b) The potential for conformance with any relevant Federal, State of Minnesota, and Pine County regulations, permits, and licenses, such as but not limited to:

- Minnesota Department of Health for food service, and other uses.
 - Minnesota PCA Rules 7030.0030 concerning noise levels
 - Minnesota PCA Rules 7090.0080 for Storm Water Runoff (see Appendix D)
 - Compliance with Pine County Highway Department setback regulations
 - Compliance with Pine County wetland regulations
 - Pool & Spa Operator certification with the National Swimming Pool Association
 - Water use permit from Mn DNR if there is a large water draw from the aquifer
 - That the Minnesota PCA rather than Arna Township, shall regulate facilities where SSTS waste capacity involves 10,000 gallons or more.
- c) Parcels that have special assessments or other existing legal disputes with Township regulations shall not be eligible for Conditional or Interim Use permits before those issues are resolved.
 - d) If there are any surety and/or deed restriction issues.
 - e) That the use will maintain safe and healthful conditions.
 - f) The potential for excessive demands on any public services, focusing at minimum upon access for emergency services, such as emergency medical needs and fire suppression. Solutions may propose details like prominent display of site numbers to facilitate rapid identification of where those services are needed, and measures for campfire regulation in periods of drought, when there are DNR burning bans.
 - g) The location of the site in regard to existing or future roads, and the potential for impacts toward traffic hazards and/or congestion.
 - h) Topographic drainage features and vegetative cover of the site, including the erosion potential of the site, as based on soil type, slope, and other relevant factors.
 - i) Adequacy of the site for water supply and waste disposal, both solid and liquid.
 - j) Compatibility to uses on adjacent properties, including location factors that prefer domestic uses.
 - k) In Shoreland areas:
 - 1) Conformity with the regulations in Section 5 of this ordinance (see especially Section 5.3.2.6, Section 5.3.2.7, and Section 5.3.2.8).
 - 2) The need of the proposed use for a Shoreland location, and whether it is compatible with other nearby Shoreland activities.
 - 3) Visibility of Structures as viewed from public waters and roads.
 - 4) Issues of erosion and sedimentation.
 - 5) Vegetative cover near the river
 - 6) The location of the site in relation to flood plains and flood ways.
 - l) Increased setbacks including those for side-yards.
 - m) Periods of operation, and other operational controls like parking, lighting, noise abatement, placement of signs, odors, and other such factors.
 - n) Types of planned construction, and locations of piers, docks, and other Structures, whether principal Structures or accessory Structures.
 - o) The prevention and control of water and other kinds of pollution, and the possible need for special restrictions that control the potential release of hazardous materials into the environment (e.g., junkyards and salvage yards).
 - p) The need for either natural screens or artificial screens built according to the standards of Section 3.7.5. This requirement is mandatory for junkyards and salvage yards.

- q) The need for future periodic inspections to confirm compliance with the terms of the permit, including violations and renewals. In some cases, inspection protocols may need to be specified in the permit. In such cases, nonconforming situations shall be corrected before any permit is allowed to continue, and if not addressed within thirty (30) days, may lead to a revocation hearing.

3.7.5 PRIVACY SCREENING SPECIFICATIONS

In situations where a regulated use is to be screened, the screen shall conform to the following guidelines. Applications for a Privacy Screening Plan are handled as directed in Section 3.4, and can be approved by any member of the Town Board, the Planning Commission acting as a whole, or the Zoning Administrator.

- 3.7.5.1 Upon the mutual consent of abutting property owners, fences may be placed on the lot line separating those parcels.
- 3.7.5.2 Fences may be either live vegetation, or constructed fences having the appearance of masonry, brick, wood, steel, or similar materials. Barbed wire, electric fence wire, hog netting, poultry netting, snow fence, and other such materials shall not be allowed for this purpose.
- 3.7.5.3 Fences may not obscure driveways where they abut roads. They must be placed such that the post(s), if used, are on the inside (no public view).
- 3.7.5.4 Fences shall comply with all setback and other dimensional standards.
- 3.7.5.5 Trees or other "live screens" must be of sufficient thickness and height to block the public view. Upon the death of individual plants, replanting must be done to perpetuate the purpose of the screen.
- 3.7.5.6 Fences shall be high enough to obstruct the public view, and may be required up to eight (8) feet high, at the discretion of the person/entity approving the Privacy Screening Plan.
- 3.7.5.7 Fences may also be required to obstruct the view from abutting properties, if so requested in writing by those property owner(s).

3.8 WETLANDS

The Wetland Conservation Act (WCA) was first passed in 1991 as Minnesota Laws Chapter 354. These Rules were created by the Minnesota Board of Water and Soil Resources (BWSR) as Minnesota Rules 8420, and will be referenced generally in this ordinance as Rules 8420 for matters concerning the WCA of 1991, including all subsequent amendments.

The term "wetland" means transitional land between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is covered by up to two (2) meters of water. Not to be confused with wetland areas, shoreland areas are something entirely different. Shorelands are regulated in Section 5 of this ordinance, and involve lands within 300 feet of a designated river or 1000 feet of a lake. Site Development and SSTS permits have setbacks from a shoreland's ordinary high water line, but there are no setbacks from wetland areas. Almost every parcel in Arna Township has some wetlands, but only a relative few are near a river.

A Local Government Unit (LGU) administers the WCA rules and permits. At this time, Arna Township does not seek to become the LGU for administering the WCA provisions. This function shall remain with the Pine County, Minnesota zoning department, which can be reached at 800-450-7463 ext 1657. Therefore, the following information about the Wetland Act is included in this ordinance for informational purposes only. Also, any future WCA rules and/or amendments made after March of 2003 (the date when this was written) are probably not reflected here. You should always seek more reliable information about wetlands from either the Pine County office, or at WWW.BWSR.STATE.MN.US.

When dealing with wetlands, the first thing you need to know is the wetland type (Type I, Type II, Type III, etc.). The Soil & Conservation District uses one of two methods to classify wetland types. One is called the Circular 39 system (from the U. S. Fish & Wildlife Service) that defines eight types of wetland. The other is the Cowardin Classification (also from the U. S. Fish & Wildlife Service), which provides better detail about the wetland than the Circular 39 method.

Wetland losses include those that occur because of draining, filling, or excavation deeper than 2 meters. The goal of the WCA is for no net loss of wetlands. Projects that create more wetlands are welcome, but for example, the creation of ponds (which the average person would think is the creation of more wetland), actually may be restricted because certain types of wetlands are being altered from one type of wetland into a different type of wetland.

As an incentive to minimize the amount of wetland loss, the wetland rules allow for the approval of projects that impact some minimum number of square feet of wetland or less. This is called "the de minimus exemption". If it is determined that your project cannot help but exceed this minimum, then the loss, in its entirety, must be replaced by creating other new wetland area of at least equal size and public value, somewhere else. So it comes down to this, the wetland loss will be covered by either the de minimus or by wetland replacement.

Activities that contemplate affecting areas larger than the exemption require a permit from the Soil & Water District (the LGU). Replacement Plans for this are approved by the LGU. In areas of Minnesota where there is less than 80% of the original wetland remaining, replacement is generally at the rate of two acres of new wetland for every acre of wetland lost. In Pine County

we still have about 90% of our original pre-settlement wetland, so replacement is at a rate of one acre of new wetland for every acre lost.

De minimus exemptions are available for various project types. Proposed projects that impact wetlands consider factors such as:

- The project type and duration
- The wetland location (e.g., proximity to DNR protected waters)
- The wetland size, and whether the wetland is contained entirely on your property, or whether it meanders onto other people's property as well
- The wetland type (as mentioned earlier: Type I, Type II, Type III, etc.)
- That the project complies with applicable federal, state, and local requirements
- That erosion control must be used to prevent sedimentation of waters

So, when starting on a project, probably the first thing you need to know is the wetland location and type that is impacted by your project. As a very broad and general statement, the de minimus exemption in Pine County is 400 square feet in Shoreland areas (between 100 to 300 feet from a river), and 10,000 square feet outside of a Shoreland area. However, in addition to the location of the wetland, the type of wetland (Type I, Type II, Type III, etc.) is also important towards determining the de minimus.

Even more complex is the situation where your project involves more than one wetland type. In this situation, the most restrictive type controls the de minimus of the others. For example, wetlands between the bank of a river and 100 feet back from the river have a de minimus of 20 square feet, so if your project also involves a wetland that would normally have a 10,000 square foot de minimus, then the de minimus for the entire project is 20 square feet. Wetland regulation is a very complex subject, so as stated before, the local Soil and Water Conservation District should be consulted for accurate information regarding all wetlands.

Once an exemption is used, it remains "in the bank" accounted to the property, not the property owner. In other words, when the land is sold, if the former owner has "used up" the exemption de minimus for that parcel, then the next property owner may not drain or fill any more wetlands except by wetland replacement.

3.9 FLOODPLAINS

As mentioned in the previous section about wetlands, the terms "wetland", "shoreland", and "floodplain" mean three entirely different things.

Arna Township hereby adopts by reference, the Pine County Floodplain Ordinance. However, Arna has elected not to be the administrative unit that manages such floodplain regulations, so please refer any questions or other issues you may have regarding floodplains, to the people who administer this county program. The phone number for Pine County government is 800-450-7463 ext 1657.

SECTION 4: SUBDIVISION REGULATIONS

The authority for township regulation of the subdivision of land is granted under Minnesota Statute 462.358, and the primary law that governs the implementation of that authority can be found under Minnesota Statutes 505. Together, these two sets of statutes provide the basis for the subdivision of land by one of two methods:

- By Minor Subdivision: which is a simple division of a parcel of land into two or more parcels, usually executed by a landowner on a casual or infrequent basis, commonly along an existing public road or easement, where the parcels often do not need to be surveyed. Legal descriptions for minor subdivisions are in the form of proportional descriptions, metes-and-bounds descriptions, or some other similar method (e.g., SE ¼ of SW ¼ of Section X, T42N, R16W, Pine County, Minnesota).
- By Plat: which is a two-step process that involves a Preliminary Plat and a Final Plat Review. Platting is a much more elaborate process than filing a Minor Subdivision. The details of the plat must conform to Minnesota Statutes 505 and other laws. Plats are often performed by a professional land developer, involving the division of a parcel into many relatively small parcels, often at or near the minimum legal parcel size and density allowed. Plats require a public hearing, a land survey, a wetland delineation report, and frequently involve the establishment of new roads that are dedicated to the public (i.e., they may become Arna Township roads). In plats, parcel legal descriptions are in the form of a Lot and Block number (e.g., Lot 3 of Block 2 of Joe's Sunny Acres). Basically, the Preliminary Plat is the construction details set by the township prior to the commencement of construction, and the Final Plat Review is the confirmation by the township that the project has actually been built according to that plan.

These descriptions are merely a broad generalization of the two methods, and are included here only to serve as a simple introduction to the overall process. Read the subsequent sections that follow for an elaboration of the differing requirements between each method.

4.1 GENERAL REQUIREMENTS

The following subdivision guidelines and standards shall be interpreted as minimum standards, and shall help guide the evaluation of Minor Subdivisions, Preliminary Plats, and Final Plat Reviews. Consideration shall also be given to all other regulations contained in other sections of this ordinance. All lands subject to township subdivision regulations that are divided and recorded, but not approved by the township, shall not be eligible for Site Development permits, SSTS permits, Conditional and Interim Use permits, or any other permits issued by the township until the subdivision has been approved in conformance with this section. Such cases may be subject to a penalty under Minnesota Statute 462.358 Subd. 4b (d).

This ordinance regulates the subdivision of land by limiting lot density rather than by setting minimum lot sizes. No platted land as of the effective date of this ordinance shall be further subdivided. Lot density regulations can be found in Section 3.2.5.1 for Zone A, and in Section 3.3.5.1 for Zone B. All new lots shall conform to the definition of a Usable Lot (Def 2.91). When feasible, legal descriptions shall be in the form of Proportional Property Descriptions (Def 2.54). Unfortunately, surveying errors in original surveys can become fairly significant

whenever parcels are less than about two-and-a-half acres. Somewhere around that size, the implied acreage can be misleading, so in this kind of situation, metes and bounds descriptions become a better method for describing small parcels. For all these and other reasons too complicated to explain here, all platted lots must be surveyed, and for Minor Subdivisions, refer to Section 4.2.1.2 and Section 4.2.2.4 to help determine when a parcel needs to be surveyed.

4.1.1 NOT A SUBDIVISION

Parcels under the following circumstances are not considered subdivisions, and are therefore not regulated by this ordinance. Much of this material can be found under Minnesota Statutes 462.352 Subd. 12, and Minnesota Statutes 462.358 Subd. 4b.

- 4.1.1.1 An Assessor's Parcel of Record (see Definition 2.3) established prior to the effective date of this ordinance, meeting the requirements of all laws and ordinances in effect on the date of its recording, or a parcel subject to a written agreement to convey, entered into prior to the date of this ordinance, meeting the requirements of all laws and ordinances in effect on the date of its recording.
- 4.1.1.2 Per Minnesota Statute 462.358 Subd 4b, when all of the resulting parcels, tracts, lots, or interests will be for residential use, will be twenty (20) acres or larger in size, and will be 500 feet or more in width, or when all of the resulting parcels, tracts, lots, or interests will be for commercial or industrial use, will be five (5) acres or larger in size, and will be 300 feet or more in width.
- 4.1.1.3 All divisions of land resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary.
- 4.1.1.4 Government lots as designated by the original government survey.
- 4.1.1.5 The creation of cemetery lots.
- 4.1.1.6 All transfers of land approved by a Preliminary Plat prior to May 1, 1983.
- 4.1.1.7 Consolidations of two (2) or more parcels of record into one parcel.
- 4.1.1.8 Transfers of fee simple title solely for the purpose of gaining access to existing land-locked parcels shall not be deemed a subdivision as long as:
 - a) The minimum width of the parcel being transferred is two (2) rods, and the maximum width is four (4) rods.
 - b) The parcel being transferred is on an existing property line, such that the transfer does not incidentally create another new (virtual or otherwise) parcel.
 - c) In cases where swampy soils, ponds, or other similar factors make the previous two provisions impractical, then the width of the parcel being transferred may exceed 66 feet, as long as the deviation is as close as possible to the perimeter of the obstruction, and the obstruction itself is part of what is being transferred.
 - d) The land being transferred is removed from the legal description of the donor parcel, and added to the legal description of the recipient parcel.
 - e) A legal covenant or restriction is recorded at the Pine County Recorder's office stating that no Site Development or SSTS permits shall ever be granted on the specific land being transferred.

4.1.2 EXEMPTIONS FROM LOT DENSITY

Applications for subdivisions shall be exempt from the lot density standards of this ordinance under the following circumstances. Any person seeking a subdivision under this exemption shall complete a Minor Subdivision application as described elsewhere. When considering the application, all other standards of this ordinance shall apply, except when explicitly stated otherwise.

4.1.2.1 ESSENTIAL SERVICES (Utilities): Subdivisions for essential services are exempt from the Usable Lot standards, and are permitted under the following conditions:

- a) If the proposed subdivision is in a Shoreland area, then township approval shall be subject to the approval of the DNR Commissioner or his representative.
- b) When the subdivision is granted, conditions shall be attached and recorded at the Pine County Recorder's office such that:
 - No Residential use shall be allowed on lots used for Essential services, and
 - A legal covenant or restriction shall be recorded at the Pine County Recorder's office stating that no Site Development or SSTS permits shall ever be granted on the specific land being transferred.

4.1.2.2 ABUTTING PROPERTIES: Transfers of land between abutting property owners that results in no net change in the total number of Parcels of Record in the township is allowed if no parcels become substandard, and the transfer is reflected in the legal descriptions of all parcels. The transfer must be recorded.

4.1.2.3 VIRTUAL DIVISION: Where a lot is virtually divided by a railroad, a public road, or a body of water over two (2) rods wide at the narrowest point, the sale of the virtually divided parcel is allowed if the following additional conditions are met:

- a) The landowner has not created or somehow contrived the situation
- b) The lot being sold conforms to the definition of a Usable Lot

4.1.3 LOT STANDARDS

When reviewing an application for the subdivision of land, problems of flooding, erosion, unfavorable topography, loss of wetlands, legal access, the accuracy of legal descriptions, adequate water supply, sewage disposal systems, and other such issues must all be considered because of their potential adverse impact on natural resources, as well as upon the health, safety, and welfare of the residents of the township. Lands subject to any such problems shall not be subdivided unless the problem is eliminated. All applications shall provide the following minimum information:

- a) **OWNER:** Documented evidence of current ownership of the land, and when applicable, that the applicant is a legal representative of the owner of the land to be subdivided.
- b) **USE:** Indicate the current use of the land (Residential, Recreational, Agricultural, Commercial, etc.) and if known, the intended use of each parcel if the subdivision is granted.
- c) **LEGAL DESCRIPTION:** Give the legal description of all parcels, which must accurately and competently describe the parcels and their approximate number of acres.

- d) **ACCESS**: List the name and location of any existing roads that abut or go through the property, the location of any recorded easements of any kind already on the property, including drainage and utility easements, and how, together with any new roads or easements, every parcel will be legally accessible by the landowners (see Section 4.1.4).
- e) **ZONING**: For each parcel, show that it conforms to the provisions of Section 3.2 or Section 3.3 (e.g., show the zone, the lot size, the existing lot density, etc.).
- f) **USABLE LOT**: Provide information that the parcel meets all the criteria of a Usable Lot. Refer to Definition 2.91, which explains SSTS issues, wetland issues, setback issues, and so forth, as described there.
- g) **HAZARDS**: Identify any hazards within the proposed subdivision, along with what actions will be taken to eliminate them. The Planning Commission shall determine if those actions are sufficient to alleviate the hazard. At minimum, the application must show the location of rivers and waterways and any areas that commonly experience flooding.
- h) **SUBSURFACE SEWAGE TREATMENT SYSTEMS**: Existing SSTS on parcels to be divided must be compliant to the standards of Section 3.6. Show Compliance Inspection results, when applicable.

4.1.4 ACCESS EASEMENTS

New access easements shall be a minimum of thirty-three (33) feet wide and a maximum of sixty-six (66) feet wide. In cases where steep slopes, swampy soils, ponds, or other similar factors obstruct the easement and make this width impractical, then the width of the easement may exceed 66 feet from the property line, as long as the deviation is as close as practical to the perimeter of the obstruction. Also, the property containing the obstruction itself will never be considered by the township as a separate virtual parcel. Proposed new access easements must be identified, and be distinguished from any other existing access, utility, drainage, and other easements, all of which must be shown on the subdivision application. The new access easement must accommodate storm waters without erosion.

Included here for informational purposes only: Be aware that if your access easement involves the filling of any wetland, then the Pine County Soil & Water department may require the creation of equivalent replacement wetland, and depending on the circumstances, may not even allow the build-out of the easement at all.

For Minor Subdivisions, all new access easements shall be private easements unless specifically designated otherwise by the township. Easements must be filed at the Pine County Recorder's office after the subdivision application is approved. Site Development and SSTS permits shall not be granted on access easement rights-of-way.

4.1.5 TOWNSHIP ROAD STANDARDS

The following guidelines describe the standards that need to be met for the construction of new roads that are accepted by the township as township roads.

- 4.1.5.1 Roads shall be properly related to any road plans or parts thereof that have been prepared, adopted, and filed by the State, County, or Township. Roads shall be located and designed to properly serve the subdivision by giving access to all lots and parcels in the subdivision. Roads shall be logically related to the topography as so to produce usable lots and reasonable curves, intersections, and grades.
- 4.1.5.2 Dead end roads are permissible, but adequate provision for turn-around and cul-de-sac shall be provided, including consideration for snow removal equipment.
- 4.1.5.3 Right-of-way width for new roads is a minimum of sixty-six (66) feet.
- 4.1.5.4 All roads must have a minimum driving surface width of twenty (22) feet with a covering of at least four (4) inches of gravel that contains both rock and binder. Samples shall be submitted to the Zoning Administrator upon request, and when requested, must be approved in writing before the gravel is applied to the road. The township may forward the sample to a qualified screen tester for evaluation, before making a determination of suitability.
- 4.1.5.5 The maximum back slope on all roads shall be no more than three (3) feet horizontally to one (1) foot of vertical drop, along with plans for erosion control.
- 4.1.5.6 The design standard for roads is thirty (30) miles per hour, with a maximum grade of six (6%) percent.
- 4.1.5.7 Before approval of a road, the proposed road bed must be viewed by at least one Town Board Supervisor who will recommend the requirements for ditches and culverts to the Planning Commission in writing before their next meeting. The Planning Commission shall consider and determine ditch and culvert requirements for the road, but may table the decision pending the need for further information. Within twenty (20) days of the determination of these requirements, they shall notify the applicant, in writing, of those details. If the Planning Commission takes no action within sixty (60) days, the proposed road shall be deemed approved.
- 4.1.5.8 A cash or performance bond shall be required in an amount of 150% of the estimated cost of the road project as determined by the Town Board. At least one independent estimate shall be used as a benchmark for this cost.
- 4.1.5.9 Fabric underliner shall be used whenever necessary.
- 4.1.5.10 If the bottom edge of a culvert is ten (10) feet or more below the road surface, a concrete culvert shall be required.
- 4.1.5.11 Culverts ten (10) foot diameter or more require engineering studies, and the involvement of the Pine County highway engineer.
- 4.1.5.12 In Shoreland areas, the following additional standards shall apply:

- a) Public roads, private roads, and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening as viewed from public waters. Also, documentation must be provided that their construction will minimize and control erosion to public waters consistent with the guidelines of the Soil & Water Conservation District, or other similar agencies.
- b) Roads, driveways, and parking areas must meet all structural setbacks, and must not be placed within bluff and shore impact zones when other reasonable alternatives exist.
- c) Public and private water craft access ramps, approach roads, and access related parking areas may be placed within shore impact zones provided that vegetative cover and erosion control measures are taken.

4.2 PROCEDURE FOR PERMITS

4.2.1 PLATTING VERSUS MINOR SUBDIVISIONS

The following guidelines describe whether an application for a subdivision should be filed as a Preliminary Plat or as a Minor Subdivision:

4.2.1.1 File a Preliminary Plat permit application when the proposal involves any of the following situations (singly, or in any combination thereof):

- a) Per Minnesota Statute 462.358 Subd 3a, all subdivisions that create five or more parcels that are 2 ½ acres or less in size, shall be platted. Otherwise, platting is required:
- b) When the project will require the creation of a new township road.
- c) When the project potentially impacts enough cumulative wetland from the creation of new roads, new easements, and new driveways, that a wetland delineation report is needed in order to clarify the impact of the project.
- d) For the creation of multiple new lots that are sufficiently complex to indicate the need for a certificate of survey.
- e) When the project is of sufficient scope to have significant impact on Shoreland areas, existing township or County roads within one mile of the project, or upon the existing use patterns in neighboring townships within one mile of the project.

4.2.1.2 File a Minor Subdivision permit application for:

- a) All simple subdivisions of parcels that meet the requirements of Section 4.1.2 (essential services, abutting properties, or virtually divided parcels).

- b) Subdivisions not regulated under Section 4.2.1.1, when all parcels are two and a half (2 1/2) acres or more, and are competently described using a proportional property description (aliquot).
- c) Subdivisions containing parcels that are either smaller than two and a half (2 1/2) acres, or are of such a size, shape, or other factor which makes the parcel incompatible with the proportional method of description, as long as:
 - the proposal is not regulated under Section 4.2.1.1,
 - the alternate property description method accurately reflects the location and number of acres being conveyed, and
 - the legal description(s) are attested by a Minnesota licensed land surveyor as evidenced by his/her registration number on the application.

4.2.2 REVIEW OF THE APPLICATION

An application for a Minor Subdivision, a Preliminary Plat, or a Final Plat is submitted as described in Section 3.4.1, and reviewed as described in Section 3.4.2 and Section 3.4.3. Prior to the Planning Commission or Town Board meeting where the application will be considered, if the Zoning Administrator determines that any additional information may be helpful for the meeting, then various professionals such as surveyors, wetland delineators, and others may be consulted in performing this review. Special attention shall be paid to wetland impacts in Minor Subdivisions because delineation reports are not required for those applications.

If the application involves a Preliminary Plat, then a public hearing must be conducted, and the additional information, procedures, and considerations found in Section 4.3 are required. For a Minor Subdivision, a public hearing is optional at the discretion of the Planning Commission. Findings of Fact and any conditional terms that are attached to any permits, shall consider at minimum, the following factors:

- 4.2.2.1 Whether the subdivision is in conformance with the Arna Township Comprehensive Plan and any other ordinances adopted by the township.
- 4.2.2.2 Whether the criteria of Section 4.1 have been met, especially considering that lots only capable of supporting a holding tank, an outhouse, a chemical toilet, or similar devices, do not meet the definition of a Usable Lot.
- 4.2.2.3 Whether the liabilities addressed in Section 3.4.6 may exist, and when so found, set conditions and terms to cover those contingencies.
- 4.2.2.4 For Minor Subdivisions, if the legal description of any parcel is deemed unsatisfactory, then the application shall be rejected until the problem is corrected. Further, even though the legal description may be competent, if either the number of acres, the lot location, or some other similar confusion is determined to exist, then a certificate of survey may be required.

No land shall be sold, and no Site Development or other permits shall be issued until a Minor Subdivision permit is issued, or a Final Plat has been recorded, whichever the case may be. If it is determined that additional information or additional time is needed for a proper

evaluation of the application, the meeting or public hearing may be recessed until another day. Applications for Minor Subdivisions may be rejected if the Planning Commission decides that a Preliminary Plat and Final Plat review would better regulate the proposal. Approval may be granted or denied for individual portions of the application, and when applicable, a date will be set for a road viewing by the Town Board. After the Planning Commission has made its final evaluation by a Findings of Fact, the decision and notification(s) shall be made in accordance with Section 3.4.5.

4.3 PRELIMINARY PLATS

In addition to all subdivision requirements mentioned previously, Preliminary Plat applications shall also submit the following information, and be evaluated by the following guidelines:

4.3.1 All plats shall be surveyed and in conformance with Minnesota Statutes 505 and Minnesota Statutes 381.12.

4.3.2 The subdivider shall provide the following number of copies of the following materials:

- a) Three (3) copies of soils information, including a wetland delineation report.
- b) Three (3) copies of topographic information that includes elevation.
- c) Eight (8) copies of the Preliminary Plat of the proposed subdivision, together with protective covenants or restrictions, if any.

4.3.3 The Zoning Administrator shall distribute this material as soon as practical, in the following manner:

- a) To the Arna Planning Commission: one (1) copy of the Preliminary Plat, and one (1) copy each of the soils and topographic information.
- b) To the Arna Town Board: one (1) copy of the Preliminary Plat.
- c) One (1) copy of the Preliminary Plat, and one (1) copy each of the soils and topographic information is to remain with the Zoning Administrator.
- d) One (1) copy of the Preliminary Plat to the Pine County Planning Commission.
- e) One (1) copy of the Preliminary Plat to the Commissioner of the DNR if the subdivision is in a Shoreland area.
- f) One (1) copy of the Preliminary Plat to the Town Board of any other jurisdiction which is within one (1) mile of the proposed subdivision.
- g) One (1) copy of the Preliminary Plat, and one (1) copy each of the soils and topographic information to the Pine County Soil and Water Conservation District.
- h) Pursuant to Minnesota Statute 505.03 Subd. 2 (b) one (1) copy of the Preliminary Plat to the Pine County Highway Engineer.

4.3.4 The Planning Commission shall, as soon as practical following receipt of the material described in 4.3.2, review the material. An applicant is encouraged to attend this pre-hearing review, in order that questions and other concerns may be addressed prior to the public hearing. The Planning Commission shall then set the time and place for a public hearing (Minnesota Statute 462.358 Subd. 3b), and shall notify in

writing the applicant, the recipients of the data listed in 4.3.3, and all property owners within one-half (1/2) mile of the proposed plat.

4.4 FINAL PLATS

Based upon approval of the Preliminary Plat, an application for a full or partial final plat shall be submitted to the Zoning Administrator within one (1) year. The applicant shall provide details of sufficient clarity to indicate the extent of compliance with the plan. The Zoning Administrator shall pass the matter on to the Town Board, who may grant an extension of time not to exceed an additional two (2) years. Any or all of the remainder of the Preliminary Plat may be submitted as a final plat within these time limits.

4.4.1 The following shall be provided by the applicant when making final application:

- a) Six (6) paper prints of the Final Plat.
- b) A current Abstract of Title or a Certificate of Title
- c) An opinion of title by the applicant's attorney

4.4.2 The Zoning Administrator shall distribute this information in the following manner:

- a) One (1) copy of the Final Plat to the Planning Commission.
- b) One (1) copy of the Final Plat to remain with the Zoning Administrator.
- c) Three (3) copies of the Final Plat and the other information of 4.4.1 to the Arna Town Board, who may further distribute this information to a surveyor, an attorney, a highway engineer, or whomever else the Town Board deems necessary in order to make a sound evaluation of the Final Plat.
- d) One (1) copy of the Final Plat to the DNR if the plat is within a Shoreland area.

4.4.3 The Town Board shall study the Final Plat and shall grant the same if they find it to be compliant. If the Town Board does not grant approval within 60 days, approval shall be deemed granted. However, approval shall not be granted or assumed by default if the Town Board or any of its representatives finds that either:

- a) The Final Plat does not conform with Minnesota Statute 505 and Minnesota Statute 381.12, or
- b) The fee simple title to the platted property is not in the name of the platter(s), or
- c) The conditions for preliminary approval have not been met, or
- d) The plat has not been constructed as proposed.

4.4.4 If any of the above conditions of Section 4.4.3 are found, the Town Board shall notify the applicant by registered mail of the reason why Final Plat approval cannot be made, and what action is necessary to gain final approval. Lack of notification shall not abrogate any terms or requirements, either explicit or implicit.

4.4.5 After approval of the Final Plat, and receipt by the township of a recordable copy of the Final Plat from the applicant, the Town Board shall approve and sign the plat, and the

Township Clerk shall file the Final Plat with the County Recorder. If the plat is within a Shoreland area, the Commissioner of the DNR will be mailed a notification of approval ten (10) days prior to the effective date.

- 4.4.6 All Preliminary Plats that do not receive Final Plat approval, either by action of the Town Board or by operation of laws, within one year from the date of submission of the application for Final Plat shall expire.

SECTION 5: SHORELAND REGULATIONS

This section sets regulations for activities in Shoreland areas. A Shoreland area means lands identified by the DNR as located within the following distances from the ordinary high water level of public waters:

- 1000 feet from a lake, pond, or flowage
- 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on a river, whichever is greater
- 412 feet from the riparian plain of the St. Croix River

It is a violation of this ordinance, subject to penalties, to not adhere to the Dimensional Standards of Section 5.3, to not get a Shoreland Alteration permit or violate the terms so regulated under Section 5.4, to not provide for Storm Water Management as directed in Section 5.5, or to violate the Special Provisions of Section 5.6. Enforcement of these violations shall be handled in accordance with Section 8 of this ordinance.

5.1 SHORELAND CLASSIFICATION SYSTEM

The public waters of Arna Township, Pine County, Minnesota have been classified as shown below following the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Pine County, Minnesota.

5.1.1 NATURAL ENVIRONMENTAL LAKES

Hay Creek Flowage Sections 20, 29, 30, Range 16

5.1.2 REMOTE RIVERS

St. Croix River Section 31, Range 15 and Section 36, Range 16

5.1.3 NATURAL ENVIRONMENTAL STREAMS

Albrechts Creek Sections 28, 33 Range 16
Bjork Creek Sections 2, 9, 10, 11 Range 16

5.1.4 TRIBUTARY STREAMS

Hay Creek Sections 3, 4, 9, 10, 16, 17, 21, 31 Range 16
Lower Tamarack River Sections 31, 32, 33 Range 16 and
Squib Creek Sections 5, 6, 7 Range 16
Upper Tamarack River Sections 12, 13, 14, 23, 24, 25, 36 Range 16 and
 Sections 6, 7 Range 15

5.2 LAND USE DISTRICTS

The following two land use districts have been established according to their compatibility with the nature of the waters of Arna Township:

5.2.1 SPECIAL PROTECTION SHORELAND AREA (SP) AND USES

This land use category is for managing areas subject to excessive flooding, or to protect areas of a unique natural characteristic worthy of protection.

5.2.1.1 SP AREAS There are two Special Protection areas in Arna Township:

- a) All Shoreland areas along the St. Croix River
- b) The Shoreland areas along and near the Hay Creek Flowage, specifically: the South ½ of Section 16, and all portions in Sections 17, 20, 21, 29, and 30

5.2.1.2 SP PERMITTED USES

- a) General agricultural pasture and/or minimum tillage cropland, except no wetlands shall be drained to facilitate cultivation
- b) Forestry, forest management, sensitive resources management
- c) Parks like Tozier Park that are limited to primitive overnight camping
- d) Hiking, riding, and other trails for strictly non-motorized use

5.2.1.3 SP CONDITIONAL USES - All approved aerial or underground utility line crossings such as electrical, telephone, telegraph, or gas lines.

5.2.1.4 SP INTERIM USES - None

5.2.1.5 SP PROHIBITED USES – All uses listed in this ordinance other than in Section 5.2.1.2 and Section 5.2.1.3.

5.2.2 RESIDENTIAL RECREATIONAL (RR) SHORELAND AREA (RR) AND USES

This land use category is designated for preserving low and medium density areas suitable for Residential development and Recreational use from commercial development. Commercial activities with minimum impact are allowed if properly managed by proper conditions applied to Conditional Use or Interim Use permits.

5.2.2.1 RR AREA - All public waters that are not in the Special Protection areas.

5.2.2.2 RR PERMITTED USES

- a) All uses allowed in the Special Protection Zone.
- b) All Permitted Uses allowed in Zone A
- c) Agricultural uses, including buildings.

5.2.2.3 RR CONDITIONAL USES

- a) All Conditional Uses listed in Zone B except storage garages
- b) Vegetative alterations made under Section 5.4.1
- c) Trails for motorized equipment.
- d) Parks and historic sites.
- e) Non-residential Structures used for raising wild animals or fish.

5.2.2.4 RR INTERIM USES - All Interim Uses listed in Section 3.3.3 for Zone B.

5.2.2.5 RR PROHIBITED USES

- a) All uses listed in this ordinance other than in Section 5.2.2.2, Section 5.2.2.3, and Section 5.2.2.4.
- b) Planned Unit Developments (PUDs).

5.3 DIMENSIONAL STANDARDS

5.3.1 LOT DIMENSIONS

All lots and Structures in Shoreland areas shall follow the same standards for lot size and setback as defined elsewhere in this ordinance. Lots created after the effective date of this ordinance and intended as controlled accesses to public waters or as Recreational areas for use by owners of non-riparian lots within subdivisions are permissible, and must meet or exceed the following standards:

- 5.3.1.1 They must meet the same width and size standards as other lots, and be suitable for the intended uses of controlled access lots.
- 5.3.1.2 They may be jointly owned by all purchasers of lots in the subdivision, or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot.
- 5.3.1.3 Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot, and what activities are allowed. The activities must be consistent with those allowed in that zone, as provided elsewhere in this ordinance.

5.3.2 STRUCTURAL DIMENSIONS

- 5.3.2.1 When more than one setback applies, the more restrictive shall be met. When Structures exist on adjoining lots on both sides, which are visible from the proposed building site, structural setbacks may be altered to conform to a uniform setback for that area, without requiring a variance, provided that the Structure will not be located in a shore impact zone or a bluff impact zone. In determining an altered setback, the average setback of the two adjoining Structures shall be used.
- 5.3.2.2 The minimum Structural, water supply, and SSTS setback from each water classification type is as follows, as measured from the ordinary high water line.

- a) Natural Environmental Lakes: 200 feet
- b) Remote Rivers: 200 feet
- c) Natural Environmental Streams: 200 feet
- d) Tributary Streams: 100 feet

5.3.2.3 The following additional Structure setbacks apply, regardless of the classification of the waterway. Setbacks are shown in feet from the ordinary high water line.

- a) Top of bluff: 30 feet
- b) Unplatted cemetery: 50 feet
- c) Right-of-way all roads and easements: 50 feet
- d) Property side-line to building wall: 20 feet

5.3.2.4 All Structures and accessory facilities except stairways and landings must not be placed within a bluff impact zone.

5.3.2.5 All guest cottages must meet the following standards:

- a) Must be no further from the principal dwelling than the minimum lot width for that water classification.
- b) Must be no larger than seven hundred (700) square feet of floor space and not exceed fifteen (15) feet in height.
- c) Must be located or designed to reduce its visibility as viewed from the public waters by vegetation, topography, increased setbacks, or color, assuming summer leaf-on conditions.

5.3.2.6 Commercial and industrial buildings permitted by Conditional or Interim Use permit, shall be placed on lots without public waters frontage as practical, but if on a lot with public waters frontage, must either be setback double from the standards of this section, or designed to reduce its visibility as viewed from the public waters by vegetation, topography, greater setback, or color, assuming summer conditions.

5.3.2.7 Tents, RV's, buses, camping vehicles, and other such items may be located in Shoreland areas, but shall not become a Residence because their use must stay consistent with their original design by remaining road ready, and serve Recreational purposes only. The dimensional requirements of 5.3.2.2 and 5.3.2.3 must be met, as well as any other regulations that govern such use (e.g., SSTS needs). SSTS requirements shall be waived when seasonal use of the property involves mobile homes (e.g., a Winnebago), that have self-contained sanitary facilities and are driven off the site to be pumped regularly at transfer stations serving such vehicles. All camping vehicles that are parked permanently on the property shall be connected to a Type I SSTS and/or graywater system when running water is available at the site, or a have a self-contained holding tank when running water is not available at the site (e.g., a privy over a sealed tank).

5.3.2.8 All camping vehicles like RV's shall be limited to two (2) per lot.

5.3.2.9 Structures must be placed in accordance with any flood plain regulations in effect for that site. In the absence of flood plain regulations, the elevation to which the lowest floor is placed, including basements, is as follows:

- a) At least three (3) feet above the flood of record, if data is available. If data is not available, either three (3) feet above the ordinary high water level, or by conducting a technological evaluation to determine the effects of the proposed construction upon flood stages and flows, and to establish a flood protection level. In all three cases, a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of flood plain areas must do the evaluation. If more than one approach is used, the Structure(s) must be placed at the highest flood protection elevation determined.
- b) Water oriented accessory Structures may have the lowest floor placed lower than the elevation determined in this item if the Structure is constructed of flood resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation, and if long duration of flooding can be expected, the Structure is built to withstand ice action and wind driven waves and debris..
- c) Structures not intended for human habitation, including attached garages or carports, shall be placed so that the lowest floor is at an elevation not less than the highest known water level elevation.

5.3.2.10 Each lot may have one (1) water oriented accessory Structure not meeting the normal structural setback of 5.3.2.2 if the Structure complies with the following:

- a) The Structure must not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed six (6) feet above grade at any point.
- b) The setback of the Structure from the ordinary high water level must be at least ten (10) feet for boathouses, and twenty five (25) feet for all other types of Structures in this category.
- c) The Structure must be treated to reduce visibility as viewed from public waters and adjacent Shorelands by vegetation, topography, increased setbacks, or color, assuming summer leaf-on conditions.
- d) The roof may be used as a deck with safety rails not exceeding four (4) feet in height, but must not be enclosed or used as a storage area of any kind.
- e) The Structure must not be designed or used for human habitation and must not contain sewage treatment facilities.

5.3.2.11 Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairs and lifts must meet the following criteria:

- a) Must not exceed four (4) feet in width, except for commercial uses and public Recreational areas.
- b) Landings must not exceed thirty-two (32) square feet in area, except for commercial uses and public Recreational areas.
- c) Canopies and roofs are not allowed on stairways, lifts, and landings.
- d) May be constructed either above the ground on posts or pilings, or placed into the ground, provided they are built in a manner that prevents soil erosion.
- e) Must be constructed in the most visually inconspicuous portion of the lot, as viewed from the public water.
- f) Such facilities for handicapped persons are allowed, provided they meet the requirements of this section and are built in accordance with Minnesota Regulations, Chapter 1340.

5.3.2.12 No Structure may be placed on a significant historic site in a manner that affects the value of the site, unless adequate information about the site has been removed and documented in a public repository.

5.3.2.13 The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of SSTS, roads, driveways, Structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to permits to prevent erosion and to preserve existing vegetation screening of Structures, vehicles, and other facilities as viewed from the water.

5.3.2.14 All Structures in Residential areas, except churches and non-Residential agricultural buildings, must not exceed twenty five (25) feet in height.

5.4 SHORELAND ALTERATIONS

Alterations of vegetation and topography are regulated in order to prevent erosion into public waters, fix nutrients, preserve Shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat. Please contact the Zoning Administrator for a Shoreland Alteration permit application for either of the following two activities:

5.4.1 VEGETATIVE ALTERATIONS

5.4.1.1 Vegetation alteration necessary for the construction Structures, SSTS, roads, and parking areas are exempt from the standards of 5.4.1.2.

5.4.1.2 Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Section 5.6 of this ordinance, is subject to the following:

- a) Intensive clearing within the shore and bluff impact zones and on steep slopes is not permitted. Intensive clearing for forest land conversion to another use outside these areas is allowed as a Conditional use, if an erosion control and sedimentation plan is developed and approved by the local soil and water conservation district.
- b) In shore and bluff impact zones, and on steep slopes, limited clearing of trees and shrubs, and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site, and also to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and water craft access areas, and permitted water oriented access Structures provided that:
 - 1) There is screening of Structures, vehicles, or other facilities as viewed from the water, assuming summer leaf-on conditions.
 - 2) Existing shading of water surfaces is preserved.
 - 3) The above is not applicable to the removal of dead, diseased, or hazardous vegetation.

5.4.2 TOPOGRAPHIC ALTERATIONS

5.4.2.1 Grading, filling, and excavations necessary for the construction of Structure and SSTS under the issuance of a permit as provided elsewhere in this ordinance, does not require issuance of a separate grading and filling permit, but the standards of this section shall still apply to these cases.

5.4.2.2 Public roads, driveways, and parking areas need a shoreland alteration permit, and are regulated further in Section 4 of this ordinance.

5.4.2.3 With the exception of 5.4.2.1 and 5.4.2.2, a grading and filling permit will be required for the movement of more than ten (10) yards of material on steep slopes or within shore and bluff impact zones. Outside of these areas, grading and filling of over fifty (50) yards shall require a permit.

5.4.2.4 The following conditions must be adhered to in regard to grading and filling, whenever any kind of permit is issued:

- a) Any wetland as defined in the January, 1989 "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" must be evaluated for grading, filling, or draining to determine how extensively the proposed activity would affect the following functional qualities of the wetland:
 - 1) Sediment and pollutant trapping and retention
 - 2) Storage of surface run-off to prevent/reduce flood damage
 - 3) Fish and wildlife habitat
 - 4) Recreational use
 - 5) Shoreline or bank stabilization

- 6) Note worthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others
- 7) A determination of whether other agencies must be involved in the project (Army Corps, DNR, etc.)

- b) Alterations must be designed and constructed in a manner that ensures only the smallest amount of bare ground is exposed for the shortest period of time.
- c) Mulches or similar materials must be used when necessary, for bare soil coverage. A permanent vegetative cover must be established as soon as possible.
- d) Methods must be used to minimize soil erosion and trap sediments before they reach any surface of public waters.
- e) Grading and filling plans must be reviewed by the soil and conservation district to ensure adequate seeding, mulching, and other control measures.
- f) Fill or excavated material must not be placed in a manner that creates an unstable slope.
- g) Plans to place fill or excavated materials on steep slopes must be reviewed by qualified professionals for continued slope stability, and must not create finished slopes of thirty percent (30%) or greater.
- h) Fill or excavated material must not be placed in bluff impact zones.
- i) Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner of the DNR under Minnesota Statutes, Section 103G.245.
- j) Alterations of topography must only be allowed if they are accessory to permitted Conditional and Interim Uses, and do not adversely affect adjacent or nearby properties.
- k) Placement of rock riprap, including associated grading of the shoreline, and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet.

5.4.2.5 Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, is controlled by permission from the Commissioner of the DNR.

5.5 STORM WATER MANAGEMENT

5.5.1 GENERAL STANDARDS

- 5.5.1.1 When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain run-off before discharge to public waters.
- 5.5.1.2 Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, run-off velocities, erosion potential, and reduce and delay

run-off volumes. Disturbed areas must be stabilized and protected as soon as possible, and methods used to retain sediment on the site.

- 5.5.1.3 When natural conditions are not sufficient to handle storm water run-off, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to surface methods rather than buried pipes and other man-made facilities.

5.5.2 SPECIFIC STANDARDS

- 5.5.2.1 Impervious surface coverage of lots must not exceed twenty-five (25) percent of the lot area.
- 5.5.2.2 When constructed facilities are used for storm water management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guides of the soil and water conservation district.
- 5.5.2.3 Newly constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

5.6 SPECIAL PROVISIONS

5.6.1 AGRICULTURAL STANDARDS

- 5.6.1.1 General cultivation farming, grazing, horticulture, truck and sod farming, and other agricultural uses are permitted in Shoreland areas including shore and bluff impact zones, as long as they are maintained in permanent vegetation or operated under an approved plan consistent with the field office technical guides of the local Soil and Water Conservation District. In the event such agricultural use creates any health or environmental hazards, that hazard must be eliminated upon written notice of the existence of that hazard by the township.
- 5.6.1.2 Animal feedlots must meet the following standards:
- a) New feedlots must not be located in the Shoreland of watercourses or in bluff impact zones, and must meet a minimum setback of three hundred (300) feet from the ordinary high water level of all public waters.
 - b) Modification or expansion of existing feedlots shall not be allowed within a bluff impact zone or Shoreland area.

5.6.2 FOREST MANAGEMENT STANDARDS

The activities associated with all forest management practices on forest land must be conducted consistent with the provisions of the Water Quality in Forest Management "Best Management Practices in Minnesota".

5.6.3 EXTRACTIVE USE STANDARDS

Extractive uses are regulated by Conditional Use permit under Section 3.7. In addition to all the regulations of Section 3.7 generally, the following shall also apply:

- 5.6.3.1 An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation on the site. The plan must address dust, noise, possible pollutant discharge, hours and duration of operation, and anticipated vegetative and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive use ceases.
- 5.6.3.2 Processing machinery must be located consistent with setbacks for Structures, from ordinary high water levels and bluffs.

SECTION 6: VARIANCES AND APPEALS

6.1 ARNA BOARD OF APPEALS & THEIR DUTIES

The Arna Town Board shall be the Arna Township Board of Appeals and Adjustments, and is hereby established. It shall have all the powers set forth in Minnesota Statutes 462.357 Subd. 6, Minnesota Statutes 462.354 Subd. 2, and Minnesota Statutes 462.359 Subd 4.

The duties of the Board of Appeals (M.S. 462.357 Subd. 6) are:

- 1) To hear requests for variances from the regulations found within this ordinance.
- 2) To hear appeals to denials of any applications made under this ordinance.

Any person aggrieved of either of these situations can seek relief by filling out an application for an Appeal or Variance as described in Section 3.4.

For a variance, a Practical Difficulty (see Definition 2.53AA) needs to be demonstrated, and may exist when a property owner proposes to use his/her property in a reasonable manner not permitted by the zoning ordinance.

An appeal is an available recourse whenever the Zoning Administrator, the Planning Commission, or any other Township official has denied some permit application. An applicant may file an appeal to the Board of Appeals within one year from the date of that denial, and shall state the reason(s) why they believe a reversal is appropriate. It is only after an adverse decision by the Board of Appeals that an applicant may seek recourse through the District Courts.

- 6.1.1 Upon receipt of the application from the Zoning Administrator (Section 3.4.2), the Board of Appeals shall review the application for completeness at their next regular Town Board meeting. Both variances and appeals require a public hearing in accordance with the requirements of M.S. 462.357 Subd. 3, so if the application is found to be complete, the Town Board shall decide whether to schedule a special meeting, or to conduct the hearing at the next regular Town Board meeting.

In determining the necessary written notifications of the hearing, the Town Board shall be mindful of the reasons for the hearing, and who interested parties may be. For example, if the application is for an appeal to the denial of a Conditional or Interim Use permit, then notifications of the hearing shall also be sent as described in Section 3.7.3 c), which is to all landowners within ¼ mile of the CUP/IUP property. If the hearing involves an appeal, notice shall include the requirements of Section 6.3.1. If the issue involves a Shoreland Area, notice shall be sent to the DNR. If the hearing involves a variance, Section 6.2.1 shall be considered.

- 6.1.2 At the hearing, the Board of Appeals shall take testimony, either oral or written. As authorized under Minnesota Statutes 462.354 Subd. 2, the Board of Appeals may adopt hearing rules for the conduct of the proceedings, covering topics such as giving oaths to witnesses, the filing of legal briefs, and other such issues. The Board of Appeals may recess the hearing in order to gather additional relevant information, the need for which was not apparent prior to the hearing.

- 6.1.3 After all testimony has been gathered, the Board of Appeals shall develop a Findings of Fact in accordance with the requirements of Section 6.2 or Section 6.3, whichever the case may be. Consideration shall also be given to the requirements of Minnesota Statutes 462.359 Subd 4, where it provides that for approval, it must be shown that both:
- The entire property cannot otherwise yield a reasonable return to the property owner
 - In consideration of justice and equity, find that approval is required in order to balance the community's interest in the Comprehensive Plan versus the interest of the property owner in that use, and the benefits of property ownership.
- 6.1.4 The Board of Appeals shall then vote whether to grant or deny the application. If the matter is approved, is a variance, CUP, or IUP, and is located within a Shoreland area, the Commissioner of the DNR shall be mailed a notification of the approval ten (10) days prior to its effective date.
- 6.1.5 All authorized variances, Conditional Uses, and Interim Uses shall be recorded at the Pine County Courthouse.
- 6.1.6 As soon as practical, written notice of the decision must be sent to the applicant by regular mail. The decisions of the Board of Appeals shall be final, and, in accordance with Minnesota Statutes 462.354 Subd. 2, the Township shall keep a record of the hearing that includes minutes of the meeting, the Findings of Fact, and Final Orders.

6.2 PROCESSING VARIANCE APPLICATIONS

- 6.2.1 For a hearing concerning a variance, abutting property owners shall be sent a notice of the hearing in accordance with the requirements of M.S. 462.357 Subd. 3.
- 6.2.2 If a variance from a setback requirement must be obtained before any SSTS or Site Development permit is issued, the board shall consider sewage treatment and water supply capabilities or constraints of the lot, and shall deny the appeal or variance if adequate facilities cannot be provided.
- 6.2.3 Variances to SSTS standards shall conform to any additional variance requirements of the MPCA or MDH under Section 3.6.3.14.
- 6.2.4 A variance may be granted when all of the following conditions are met:
- a) The plight of the landowner is due to circumstances unique to his property, and were not created by the landowner.
 - b) The proposed variance is in harmony with the general purpose and intent of the ordinance, and will not alter the essential character of the locality.
 - c) The proposed variance is in keeping with the Comprehensive Plan.
 - d) Economic considerations alone shall not constitute a practical difficulty.
 - e) The proposed use must be consistent with permitted uses in the zone where the property exists.

- 6.2.5 If approval of the variance is granted, nonconforming water supply and SSTS shall be brought into conformance with the standards of this ordinance.
- 6.2.6 If a variance is approved after the DNR has formally recommended denial in the public hearing record, the notification shall also include the Board of Appeal's summary of the public record, the Findings of Fact, and other conclusions that supported the approval.
- 6.2.7 When granting a variance, the Board of Appeals may impose any conditions deemed necessary or in the public interest. All such conditions must be directly related to and must bear a rough proportionality to the impact created by the variance.

6.3 PROCESSING ADVERSE DECISIONS

- 6.3.1 The Board of Appeals shall make no decision on an appeal or petition until the Planning Commission or a representative authorized by it has had reasonable opportunity, not to exceed 60 days, to review and report to the Board of Appeals upon the appeal or petition.
- 6.3.2 If the issue before the Board of Appeals involves the denial a Conditional Use or an Interim Use, and a decision to approve has been made, the Board of Appeals may ask the Planning Commission to develop the Conditions of Operation to be attached to the permit.

SECTION 7: AMENDMENTS

7.1 GENERAL REQUIREMENTS

Amendments are proposed changes that are suggested from a) individuals, b) the Planning Commission, or c) the Arna Town Board. Amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies or changes in conditions of the township. Amendments to this ordinance shall be conducted according to Minnesota Statutes 462.357 Subd.4, and shall require a public hearing according to Minnesota Statutes 462.357 Subd. 3.

7.2 APPLICATIONS

Proposed amendments from individuals are initiated according to the guidelines of Section 3.4. The Zoning Administrator shall forward such requests to the Town Board. If the Town Board decides to proceed with the amendment application, they shall forward the matter to the Planning Commission for study and a public hearing. If the Town Board decides not to pursue the matter, the applicant shall be so notified within thirty (30) days.

In cases where the proposal goes to the Planning Commission, the matter must be processed within sixty (60) days, or 120 days if property extended, or the amendment will be automatically granted under Minnesota Statute 15.99.

7.3 PUBLIC HEARINGS

After the Planning Commission receives a request for an amendment study from the Town Board, they shall study the issue(s) prompting the study, and once they have developed tentative proposed new language on that subject(s), they shall set the date, time, and location of a public hearing. They shall conduct the public hearing, develop a Findings of Fact, and submit a recommendation either for or against the proposal back to the Town Board.

The Town Board shall either adopt or refuse to adopt the proposed amendment within the timeframe mandated by Minnesota Statute 15.99. If the amendment is approved and includes any changes within a Shoreland, the Commissioner of the DNR shall be mailed a notification of the new language ten (10) days prior to its effective date.

All amendments must be published in the township newspaper of record, either in full or in summary form, and then also recorded at the Pine County Courthouse.

SECTION 8: ADMINISTRATION, FEES, AND ENFORCEMENT

8.1 ADMINISTRATION

Except as provided elsewhere in this ordinance, the Arna Township Zoning Administrator is responsible for the administration of this ordinance. He shall file all matters required by Minnesota Statute 462.36. He shall accept and process all applications for Site Development permits, SSTS matters, Conditional & Interim Use permits, Subdivisions, Preliminary Plats, Final Plat reviews, grading and filling permits, storm waters and vegetative cover restrictions, variances, appeals, amendments, time extensions, and all other permits, correspondence, and documentation that is required by this ordinance.

8.2 FEES, PENALTIES, AND UNPAID CHARGES

a) Fees: Fees for all permits, variances, appeals, amendments, copies of township records, copies of this ordinance, and any other such fees shall be determined by the Town Board, but shall be no higher than what may be reasonably needed to cover public hearing, filing, and other administrative costs. Permit fees shall be clearly shown on every permit application. Applications may incur other fees as described in Section 3.4.6. The Planning Commission shall review the amount of these fees annually, make a report of that review to the Town Board, and the Town Board shall adjust the fee amounts as they determine proper.

The applicant and the property owner (if not the same as the applicant) shall be jointly and severally liable for all costs incurred by the Township in processing the application, including engineering, planning, and legal consulting costs incurred by the Township.

b) Penalties: Minnesota Statute 462.362 authorizes the adoption of penalties for violations of this ordinance. As with permit fees, after reviewing recommendations from the Planning Commission, the Town Board shall set the penalty amount for the various violations that are stated in Appendix C of this ordinance.

c) Unpaid charges: Depending on the details of each case, Minnesota Statutes Chapter 366 (e.g., 366.011 & 366.012), Chapter 429 (e.g., 429.021, & 429.101), and M.S. 463.21 may be used along with, or in addition to any other applicable statutes for the collection fees, charges, and penalties. As provided for by numerous laws, whenever a charge remains unpaid for 30 days, the Town shall collect said penalty via a special assessment against the property, or by obtaining a judgment against the owner of the real estate on which the violation exists.

8.3 ENFORCEMENT

Alleged violations of this ordinance may arise from a variety of sources, such as by seeing a problematic situation from a public road, from complaints received from the public, as a result of inspections such as compliance inspections of sewer systems, from the passing of a deadline, from the routine review of Certificates of Real Estate Value for SSTS issues, and from many other sources. Violations can also occur regardless of whether or not a permit is required for that activity. For example, minor construction that does not require a Site Permit might have been placed too close to a river or road, and therefore represents a violation.

An appropriate strategy toward enforcement begins with issues of urgency, as well as separating fact from fiction, so when the Township becomes aware of an alleged violation, either the Zoning Administrator or a Town Board Supervisor shall as soon as practical review any relevant records the township or others may possess, and attempt as practical to investigate and/or resolve the situation by visiting the relevant property and/or talking to the Property Owner or his/her agent.

If after such cursory investigation the violation in fact exists and remains unresolved, then the next step is to determine the appropriate method of enforcement. If the matter involves topic areas the Planning Commission normally handles (see Table 3.4.9), then they shall determine whether to send a Notice of Violation to the property owner. For all other matters like permit issues, variances, and so forth, the Zoning Administrator shall handle the situation. Subsequent following sub-sections go on to elaborate the details, but regardless of who is responsible for the initial processing of the alleged violation, the basic enforcement process is:

- Step 1: To send a written Notice of Violation to the property owner indicating a time in which to bring the property into compliance with the terms of this ordinance. See Section 8.3.1 for the details of this process.
- Step 2: If the matter still remains unresolved, then the Township may seek misdemeanor criminal charges, civil relief, District Court mandated enforcement of the violation, or other forms of relief as explained in Section 8.3.2.

In cases determined by the township to be urgent, this two-step process shall not limit or abrogate the Township's right to seek immediate relief under the provisions of Minnesota Statute 462.362, and/or any other relevant statutes.

8.3.1 TOWNSHIP NOTICE OF VIOLATION

- a) For Administrative Violations (see Definition 2.1.C), the Zoning Administrator shall send, by ordinary mail, all Notice(s) of Violation to the Property Owner at their Address of Record. A standard Notice of Violation form shall be filled out, completing all the necessary information required by that form, including a time period for compliance not to exceed thirty (30) days, and the penalty for noncompliance. If the violation involves an activity requiring a permit that has commenced without a permit, then an application for that type of permit(s) shall be included with the Notice(s). At the Zoning Administrator's discretion, he/she may consult the Planning Commission about the case prior to sending a Notice of Violation.

- b) For matters handled by the Planning Commission, the Planning Commission shall consider the matter at their next regular meeting. If they decide to go forward with the matter, then they shall proceed with a standard Notice of Violation form in a manner similar to Section 8.3.1 a). If the property is vacant, the owner is unknown, or the owner refuses to accept the Notice, then the Notice shall be posted prominently on the property. An Affidavit of Service shall then be completed for each copy sent. The time period for compliance begins on the next day after the service was performed.
- c) In regard to both Sections 8.3.1 a) and 8.3.1 b), for violations that occur in Shoreland areas, a copy of the Notice of Violation shall be sent to the Commissioner of the DNR. Also in regard to both Sections 8.3.1 a) and 8.3.1 b), the Notice of Violation shall inform the recipient(s) that if they want to dispute, discuss, or otherwise review with the township any of the information contained in the Notice, then such a request shall be granted, but only if that request is made in writing within 20 days of receipt of the Notice. The Notice of Violation shall also inform recipient(s) that if they specifically want to seek a time extension to the compliance period stated in the Notice, then such a request will only be granted by completion of a Nuisance and/or Zoning Violation Abatement Agreement, which is available for review by request. This Agreement must be signed by the recipient(s) prior to the compliance date deadline as stated in the Notice of Violation.
- d) Upon receipt of an application for a Nuisance and/or Zoning Violation Abatement Agreement, the Zoning Administrator shall first determine whether all necessary information has been provided, and in cases where it has not, then return that application along with an explanation of why it was rejected. If the application is complete, then the Zoning Administrator shall inform that person by ordinary mail, of the date, time, and location of the next Town Board meeting where that request will be considered, and invite him/her to attend if they so chose. In the interim, the original time period for compliance shall be temporarily placed on hold pending the board's determination. The person seeking the time extension shall not assume that a time extension has been either granted or denied until he/she has received a written response from the township stating their decision.
- e) A copy of all Notices, Affidavits of Service, and other written correspondence both to and from the recipients of the Notice shall be kept in township records.

8.3.2 FINAL RESOLUTIONS

For cases that are not resolved by the process of 8.3.1, the Town Board shall decide whether to pursue the case further by seeking either relief in District Court, or some alternate legal action. When the Town Board so decides, depending on the advice of the attorney and the details of each individual case, one or more of the following courses of action may be pursued:

- 8.3.2.1 For default cases, seek an **enforcement** of the Town's Notice(s) of Violation(s) issued under Sections 8.3.1 by way of a Default Motion, a Motion for Summary Judgment, or such other proceeding as may be determined by the Township Attorney. As with Section 8.3.2.3, the owner

of the property upon which enforcement is sought shall pay costs and expenses incurred by the township in pursuing this action.

- 8.3.2.2 To pursue a **misdemeanor criminal** offense which, if the property owner is found guilty, as per Minnesota Statute 609.034, may be punishable by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for not more than ninety (90) days, or both, plus the costs of prosecution.
- 8.3.2.3 To pursue a **civil action** in which the Town will ask the court to direct that the property be brought into conformity with State law and this ordinance. The Town will ask the Court to Order that the property be brought into compliance, and that if the property owner fails to complete that work within the time period given by the Court, then allow the Town to go on the property to make the necessary remediation. Depending on the circumstances, the Town may also ask the Court that the property owner reimburse the Town for all the costs, legal fees, and expenses that are associated with the court action and abatement under either Minnesota Statute 429.101, Minnesota Statute 463.21, or any other statutory authority, where, if the costs are not paid by the property owner in the time provided by the Court's order, then the Town may put the costs on the property as an assessment, or otherwise certify such costs to the Pine County Auditor pursuant to Minnesota Statute 366.012, or any other statutory authority.
- 8.3.2.4 To record the condition upon the parcel where the violation exists, at the Pine County Recorder's Office.
- 8.3.2.5 To explore arbitration, mediation, or any other course of resolution that may be indicated by the specific details of the case.

APPENDIX A - List of Statutes & Rules

A bona fide attempt has been made to list all statutory references that can be found within this ordinance. However, sometimes one statute may authorize the use of another statute, so be aware that this Appendix does not contain such “chaining” of statutes. Furthermore, the omission of a statute citation in this Appendix shall not limit the Township’s right to bring an action under any particular statute.

To read any of these laws on the Internet, go to: WWW.REVISOR.MN.GOV/PUBS/. Also, Pine County ordinances like the Pine County Solid Waste Ordinance, the Pine County SSTS ordinance, and the Pine County Subdivision ordinance, are all important documents to be familiar with (go to WWW.CO.PINE.MN.US)

<u>Minnesota Statutes</u>	<u>Subject</u>
15.99	Time limits for deadlines (60 day rule)
93.44 to 93.51	Reclamation of land after mining gravel, minerals, peat, etc.
103F	Protection of Water Resources (Mn DNR)
103G.005 Subd. 15 & 15a	Define public waters & wetlands
103G.245	Permits for working below the ordinary high water line
115.55	Subsurface Sewage Treatment Systems (Mn PCA & SSTS)
157.15	Definition of hotel, motel, resort, and lodging establishment
164.08	Petition for cartway to landlocked parcels
168.10	Definition of antique or classic car (versus junk car)
272.115 Subd. 1	Requirements for filing Certificates of Real Estate Value (CRV) by Mn DOR
307.08.1.1	Molestation of human remains, burials, and cemeteries
327.14 Subd 3 & 8	Definition of campground, and Manufactured Home Park
327.31 Subd. 6	Definition of a Manufactured Home
365.10	Powers of electors at annual town meetings
366.011 & 366.012	Charges and collection of costs for emergency services
381.12	Relocation of Section corners by a surveyor
429.021 & 429.101	Unpaid special charges as Special Assessments
462.351 to 462.365	The primary authority for our Planning & Zoning <u>(for additional details, see Appendix B next page)</u>
505	Plats, coordinates, and surveys
609.34	Statutory Limits for Penalties for Misdemeanors
<u>Minnesota Rules</u>	<u>Subject</u>
1340	Rules about handicapped access
4410.4300	Rules about Environmental Assessment Worksheets
4410.4400	Rules about Environment Impact Statements
4725.2050	Prohibition against using wells for disposals
6120.2500 to 6120.3900	Main body of DNR rules for Shoreland Management
7080 to 7083	Main body of PCA rules for sewer systems
7030.0030	PCA rules concerning noise levels
7090.0080	PCA rules concerning storm water runoff (29 SIC codes)
8420	Board of Water and Soil Resources – e.g., to put in a pond

Misc Other References

40 CFR 503

CFR 144 & CFR 146

Subject

Code of Federal Regulations that covers the dumping of sludge taken from septic tanks onto open ground

Code of Federal Regulations that covers what is called a “Class V Injection Well” in regard to sewer systems (we don’t have any, but the Mn PCA requires listing)

APPENDIX B – Index to MS 462.351 to MS 462.365

MUNICIPAL PLANNING AND DEVELOPMENT	462.351
DEFINITIONS	462.352
AUTHORITY TO PLAN; FUNDS; FEES; APPEAL	462.353
WAIVER OF RIGHTS	462.3531
COMMUNITY-BASED PLANNING	462.3535
ORGANIZATION FOR PLANNING	462.354
Subd. 1 Planning Agency	
Subd. 2 Board of Appeals	
ADOPT, AMEND COMPREHENSIVE PLAN; INTERIM ORDINANCE	462.355
PROCEDURE TO EFFECT PLAN: GENERALLY	462.356
OFFICIAL CONTROLS: ZONING ORDINANCE	462.357
Subd. 1 Authority	
Subd. 1d Nuisances	
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Subd. 3 Public Hearings	
Subd. 4 Amendments	
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OFFICIAL CONTROLS: SUBDIVISION REGULATIONS	462.358
Subd. 1 Authority	
Subd. 3a Platting	
Subd. 3b Review Procedures	
Subd. 5 Permits	
JOINT PLANNING BOARD	462.3585
PROCEDURE TO EFFECT PLAN: OFFICIAL MAPS	462.359
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CONDITIONAL USE PERMITS	462.3595
INTERIM USES	462.3597
CERTIFIED COPIES FILED WITH COUNTY RECORDER	462.36
JUDICIAL REVIEW	462.361
HOUSING FISCAL IMPACT NOTES	462.3612
ENFORCEMENT AND PENALTY	462.362
PRESENT ORDINANCES CONTINUED	462.363
INCONSISTENT LAWS	462.364
EXTENSION OF TIME FOR COMPLIANCE	462.365

APPENDIX C
Summary of Violations of this Ordinance
(refer to Minnesota Statute 462.362)

This appendix has been provided for convenience only. In cases where the language in this appendix conflicts with any language or interpretations in the main body of this ordinance, then the language in the main body of this ordinance shall prevail. Likewise, errors or omissions on the following list do not invalidate any violations or penalties described in the main body of this ordinance.

<u>Reference</u>	<u>Description</u>	<u>Penalty starts at:</u>
a) 3.4.1	To start work on a regulated activity without a permit	Notice of Violation
b) 3.4.7	To provide false information on an application	Notice of Violation
c) 3.4.7	To alter the information on any permit issued by the township	Notice of Violation
d) 3.4.7	To not implement the terms and conditions on a permit	Notice of Violation
e) 3.4.8 a)	Failure to grant access to land to perform inspections	Notice of Violation
f) 3.5.1 *	To start construction of a structure without a Site permit	Notice of Violation
g) 3.5.1	Minor Construction that does not comply with this ordinance	Notice of Violation
h) 3.6.1	When a Developed Lot has no SSTS at all	Notice of Violation
i) 3.6.1.2	To discharge raw sewage into a well	Notice of Violation
j) 3.6.3.6	Failure to complete SSTS within one year (see also 3.6.2)	Notice of Violation
k) 3.6.3.7 *	To work on an SSTS without a permit (see also 3.6.1)	Notice of Violation
l) 3.6.3.7	To alter the design, including the location, of an SSTS	Notice of Violation
m) 3.6.3.8 *	To not repair a faulty SSTS after more than one year	Notice of Violation
n) 3.6.3.9	To dump septage on land without a permit	Notice of Violation
o) 3.6.5.1	To refuse to get a Compliance Inspection on an existing SSTS	Notice of Violation
p) 3.6.5.2 *	When Compliance Inspection fails, to not fix within one year	Notice of Violation
q) 3.6.6.9 *	To violate the terms of an Operating Permit	Notice of Violation
r) 3.7.3 f) *	To violate any terms of a Conditional or Interim Use permit	Notice of Violation
s) 4.1 *	To create a subdivision without a permit	Notice of Violation
t) 4.2.2 *	To sell a new parcel before the permit for it is issued	Notice of Violation
u) 5.0 *	Violations specific to Shoreland areas	Notice of Violation

* Some violations incur penalties under more than one citation. For example, Item f) involves circumstances that violate both Section 3.4.1 and Section 3.5.1.

A SUMMARY OF HOW PENALTIES ARE ADMINISTERED:

<u>Reference</u>	<u>Brief Description</u>
8.2.2	Directs the Planning Commission to study the amounts for penalties, and to make recommendations to the Town Board, who sets the amount.
8.3.1 a)	Notice of Violations sent by the Zoning Administrator to inform the violator of the ordinance citation and penalty due, if any.
8.3.1 b)	Notice of Violations sent by the Planning Commission to inform the violator of the ordinance citation and penalty due, if any.

Also see Section 1.3, Abrogations and Interpretations, for additional information about penalties in general.

APPENDIX D

SIC CODES for STORMWATER RUNOFF for 29 INDUSTRY SECTORS

- A – Timber – Sawmills, millworks, logging, finishing
- B – Paper and allied products
- C – Chemical and allied products
- D – Asphalt, paving, roofing, lubricants
- E – Glass, clay cement
- F – Primary metals
- G – Metal mining
- H – Coal mines
- I – Oil and gas extraction
- J – Mineral mining
- K - Hazardous waste processing
- L – Landfills
- M – Auto salvage yards
- N – Scrap and waste recycling
- O – Steam electric generation
- P – Land transportation
- Q – Water transportation
- R – Ship and boat building
- S – Air transportation
- T – Treatment works
- U – Food and kindred products
- V – Textile mills, fabric, apparel
- W – Furniture and fixtures
- X – Printing and publishing
- Y – Rubber and plastic products
- Z – Leather tanning and finishing
- AA – Fabricated metal products
- AB – Transportation equipment, industrial and commercial machinery
- AC – Electronic and electrical equipment and components, photographic optical Goods

OFFICIAL ZONING MAP

ARNA TOWNSHIP

TOWNSHIP 42 NORTH – RANGES 15 & 16 WEST

PINE COUNTY, MINNESOTA

OFFICIAL ZONING MAP
ZONE A of ARNA TOWNSHIP
SECTION 26
of TOWNSHIP 42 NORTH,
RANGE 16 WEST,
PINE COUNTY, MINNESOTA

The numbers inside each of the quarter-quarter sections is the number of existing parcels as of the publication date of this ordinance.

Arna Ordinance 2021-2 is hereby adopted and passed by the Arna Town Board:

On this 12th day of May, 2021

BY: ARNA TOWN BOARD CHAIRMAN: _____
Jean Jansen

Notice of Public Hearing: April 22, 2021

Date of Public Hearing: May 3, 2021

Adopted by Arna Town Board: May 12, 2021

Publication of Ordinance: May 20, 2021

Filed with County Recorder: May 20, 2021

Effective Date: May 20, 2021

**ACKNOWLEDGEMENT: STATE OF MINNESOTA)ss.
COUNTY OF PINE)ss.**

On this _____ day of _____, 2021, before me, an ex-officio Notary Public for Arna Township, personally appeared Jean Jansen, Township Chairman, to me known to be the person described herein, and who executed the foregoing instrument, and acknowledge that they executed it as their free act and deed.

Cheryl Wickham – Arna Township Clerk

(Notary Seal)