

2015

Pine City Township Ordinance

ZONING ORDINANCE

Updated and Revised November 2015

2015

Pine City Township Ordinance

ORDINANCE AMENDMENTS

DATE	ORDINANCE	DOCUMENT	PURPOSE
2/24/1992	C-1992-1	Comprehensive Plan	Adopted Comprehensive Plan
5/08/1996	O-1996-1	Zoning Ordinance	Adopted Zoning Ordinance
2/04/1997	A-1997-1	Zoning Amendment	Added-Transmission Services
8/04/1998	A-1998-1	Zoning Amendment	Added-Lot Width, Late Penalty,
10/05/1999	A-1999-1	Zoning Amendment	Added-Facility Use
6/05/2000	O-2000-1	Sewer Ordinance	Adopted ISTS Sewer Treatment Ordinance
9/7/2004	A-2004-1	Zoning Amendment	Added Certificate of Survey
12/06/2005	A-2005-1	Zoning Amendment	Repealed-A-1999-1 Facility Use
5/01/2007	A-2007-1	Zoning Amendment	Add-Application of Non-Contaminated Wood Ash
01/01/13		Zoning Amendment	Ordinance Amendment
01/07/14	A-521499	Septic Ordinance	Adoption of Subsurface Sewage Treatment System Ordinance
09/14/15	A-523531	Zoning Amendment	Right of Way Ordinance

2015

Pine City Township Ordinance

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Zoning Ordinance for the Township of Pine City, Minnesota

The Town Board of the Township of Pine City, Minnesota ordains: an ordinance regulating the use of land, the location, size and use of buildings and the arrangement of buildings on lots in the Township of Pine City, Minnesota, pursuant to the authority granted by Minnesota Statutes Section 462.357

SECTION 1.

TITLE AND APPLICATION

Subd. 1.

Title. This ordinance shall be known as the “Zoning Ordinance of the Township of Pine City, Minnesota,” except as referred to herein, where it shall be known as “this Ordinance.”

Subd. 2.

Intent and Purpose. The intent of this Ordinance is to protect the public health, safety and general welfare of the Township and its people through the establishment of minimum regulations governing land development and use. This Ordinance shall divide the Township into use districts and establish regulations in regard to location, erection, construction, placement, reconstruction, alteration and use of structures and land. Such regulations are established to provide convenience of access to property; to prevent congestion in the public right-of-way; to prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards and density of population; to provide for compatibility of different land uses; to provide for administration of this Ordinance, to provide for amendments; to prescribe penalties for violation of such regulations; to define powers and duties of Township staff, the Board of Appeals and Adjustments, the Planning Commission, and the Town Board of Supervisors in relation to the Zoning Ordinance.

Subd. 3.

Standard Requirement. Where the conditions imposed by any provisions of this Ordinance are either more or less restrictive than comparable conditions imposed by other ordinance, rule or regulation of the Township, County, State, or Federal Government, the ordinance, rule or regulation which imposes the more restrictive condition standard or requirements shall prevail. In the event of any conflict between this Ordinance with any private restrictions, protections and covenants, the provisions of this Ordinance shall be met.

- A. **Affected Areas.** The Areas affected by the provisions of this Ordinance shall include all lands within Pine City Township, except for those lands included in and regulated by the Pine County Shorelands/Flood Plain ordinances, as amended.

Subd. 4.

Minimum Requirements. In their interpretation and application, the provisions of this Ordinance shall be held to the minimum requirements for the promotion of the public health, safety and welfare.

Subd. 5.

Conformity with Provisions. No structure shall be erected, converted, enlarged, reconstructed, placed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Ordinance.

Subd. 6.

Site Permits. Except as herein provided, no building, structure or premises shall hereafter be used or occupied without the issuance of a site permit as required by Section 10, Subd. 3, and no site permit shall be granted that does not conform to the requirements of this Ordinance.

Subd. 7.

Conditional Uses, Variances, Amendments, Appeals. Nothing within this Ordinance shall be construed so to deny any property owner his right to apply for a conditional use permit, variance, amendment or appeal.

Subd. 8.

Uses Not Provided for Within Zoning Districts. Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such case the Township Board of Supervisors or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable, what zoning district would be most appropriate, and the determination as to conditions and standards relating to development of the use. The Township Board of Supervisors, Planning Commission or property owner shall, if appropriate, initiate an amendment to the Zoning Ordinance to provide for the particular use under consideration or the Township Board of Supervisors shall find that the use is not compatible and therefore not allowed within the Township.

Subd. 9.

Separability. It is hereby declared to be the intention of the Township that the several provisions of this Ordinance are separable in accordance with the following:

A. If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgement shall not affect any other provision of this Ordinance not specifically included in said judgement.

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

SECTION 2.

DEFINITION OF TERMS

The following words and terms wherever they occur in this Ordinance, shall be interpreted as herein defined.

Subd. 1.

Accessory Building or Use. A Subordinate building, structure or use which is located on the same lot on which the main building or use is situated and is reasonably necessary and incidental to the conduct of the primary or principal use of such building or main use.

Subd. 2.

Agricultural Uses. Those uses commonly associated with the growing of produce and raising of livestock on farms. These include: field crop farming; pasture; the production of hay, fruit, trees, plants, shrubs or flower nursery without building; truck gardening; roadside stand for sale in season; and livestock raising and feeding.

Subd. 3.

Automobile Wrecking or Junk Yard, Salvage Operations. Any place where five (5) or more vehicles not in running condition and/or not licensed, or parts thereof are stored in the open and are not being restored to operation; or any land, building or structure used for wrecking or storing of such motor vehicles or parts thereof; and including any commercial salvaging and scavenging of any other goods, articles, merchandise or structures.

Subd. 4.

Basement. A portion of a building located partially underground but having more than one-half (1/2) its floor to ceiling height below the average land grade.

Subd. 5.

Buildable Area. The portion of a lot remaining after the exclusion of required yards, lowland or wetland areas and unbuildable soils or topography.

Subd. 6.

Building. Any structure designed, used or intended for supporting or sheltering any use or occupancy.

Subd. 7.

Building Line. That line measured across the width of the lot at the point where the main structure is placed in accordance with setback provisions.

Subd. 8.

Building Setback. The minimum horizontal distance between the building and the specified lot line as prescribed in this Ordinance.

Subd. 8a.

Certificate of Survey. A land survey prepared by a land surveyor registered in the State of Minnesota with a certification that the information on the land survey is accurate. (Amendment adopted September 2004)

Subd. 9.

Conditional Use. A use, which because of special problems of control requires reasonable, but special limitations peculiar to the use for the protection of the public health, safety and welfare, and the integrity of the Town's Comprehensive Plan.

Subd. 10.

Conditional Use Permit. A permit issued by the Town Board in accordance with procedures specified in this Ordinance, as well as its compatibility with the Town's Comprehensive Plan, as a flexibility device to enable the Town Board to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.

Subd. 11.

District. A section or sections of the Township which the regulations and provisions governing the use of building and lands are uniform for each class of use permitted herein.

Subd. 12.

Dwelling. A building or portion thereof, designated exclusively for residential occupancy, including one-family and two-family dwellings, seasonal dwellings, manufactured housing, but not including hotels, motels and boarding houses.

Subd. 13.

Dwelling, Single Family. A detached dwelling unit designed for occupancy of one (1) family.

Subd. 14.

Dwelling, Two-Family. A dwelling designed exclusively for occupancy by two (2) families living independently of each other.

Subd. 15.

Earth Sheltered Buildings. Buildings constructed so that more than fifty percent (50%) of the exterior surface area of the buildings, excluding garages and other accessory buildings, is covered with earth. Partially completed buildings shall not be considered earth sheltered.

Subd. 16.

Essential Services. Underground or overhead gas, electrical, steam or water distribution systems; collection, communication, supply or disposal system including poles, wires, mains, drains, sewer, pipes conduits, cables, fire alarm boxes, traffic signals, hydrants or other similar equipment and accessories in conjunction therewith; but not including buildings or transmission services.

Subd. 17.

Family. An individual or two or more persons related by blood or marriage or a group of not more than five unrelated persons living together on the premises or in a single housekeeping unit.

Subd. 18.

Farm. A tract of land which is principally used for commercial agriculture, all of which is owned and/or operated by a single family, farm corporation, individual or corporation.

Subd. 19.

Fence. A barrier forming a boundary to, or enclosing some area.

Subd. 20.

Forestry. The management, as logging of a forest, woodland, or plantation, and related research and educational activities, including the construction, alteration or maintenance of woodroads, skidroads, landings, and fences.

Subd. 21

Garage, Private. An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families resident upon the premises, and in which no business service or industry is carried on.

Subd. 22.

Hardship, Undue. The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to his property not created by the landowners.

Subd. 23.

Home Occupation. Any occupation or profession carried on by a member(s) of the family residing on the premises, provided that the use is clearly incidental and secondary to the main use of the premises for dwelling purposes and does not change the character thereof.

Subd. 24.

Interim Use. A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

Subd. 25.

Interim Use Permit. A temporary permit issued by the Town Board in accordance with procedures specified in this Ordinance, as well as its compatibility with the Town's Comprehensive Plan, as a flexibility device to enable the Town Board to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents; the permit termination based on a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

Subd. 26.

Kennel. Any place where four (4) or more dogs over six (6) months of age are boarded, bred, or offered for sale, except veterinary clinics. Kennels shall be considered a commercial use for the purposes of the Ordinance.

Subd. 27.

Lot, Of Record. A parcel of land, whether subdivided or otherwise legally described of record in the office of the County Recorder as of the effective date of this Ordinance, or approved by the Township as a lot subsequent to such date.

Subd. 28.

Lot. Land occupied or to be occupied by one (1) principal building or use and its accessory buildings, together with such open spaces as are required under the provisions of this Zoning Ordinance, having not less than the minimum area required by this Zoning Ordinance for a building site in the district in which such lot is situated and having its principal frontage on a street or a proposed street approved by the Township Board, or having not less than a thirty-three (33) foot easement for the purpose of access to a street or proposed street approved by the Township Board.

Subd. 29.

Lot Area. The area of a horizontal plane within the lot lines.

Subd. 30.

Lot, Corner. A lot situated at the junction of and abutting on two (2) or more intersecting roads; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty-five (135) degrees or less.

Subd. 31.

Lot, Frontage. The front of a lot shall be that boundary abutting a public right-of-way.

Subd. 32.

Lot, Line. A property boundary line of any lot held in single or separated ownership, except that where any portion of the lot extends into the abutting road, the lot line shall be deemed to be the road right-of-way.

Subd. 33.

Lot, Width. The shortest horizontal distance between the side lot lines measured at the right angles at the building line and front lot line.

Subd. 34.

Manufacturing. All uses which include the compounding, processing, packaging, treatment or assembly of products and materials.

Subd. 35.

Mining Operation - Commercial. The removal from the land and sale of stone, sand, gravel, black dirt, peat, sod, coal, salt, iron, copper, nickel, granite, petroleum products or other material for commercial, industrial, or governmental purposes.

Subd. 36.

Nonconforming Structure or Use. Any structure or use which on the effective date of this Ordinance does not, even though lawfully established, conform to the applicable conditions if the structure or use was to be erected under the guidance of this Ordinance.

Subd. 37.

Parking Space. An area of not less than nine (9) feet in width and nineteen (19) feet in length, enclosed in the main building, in an accessory building, or unenclosed, sufficient in size to store one (1) automobile which has adequate access to a public road and permitting satisfactory ingress and egress of an automobile.

Subd. 38.

Permitted Use. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such districts.

Subd. 39.

Planning Commission. The planning advisory board of the Township, designated by the Township Board of Supervisors.

Subd. 40.

Principal Use. The primary or main use of land or buildings as distinguished from subordinate, incidental or accessory uses.

Subd. 41.

Public Road. For the purpose of this Ordinance public roads shall include only those roads which are owned by the township, county, state, or federal government, and dedicated for public use.

Subd. 42.

Protected Waters. Any waters of the State which serve a beneficial public purpose, as defined in Minnesota Statutes, Section 103G.201. A body of water created by a private user where there was no previous shoreland, as defined herein, for a designated private use authorized by the State of Minnesota shall be exempt from the provisions of these regulations.

Subd. 43.

Setback. The minimum horizontal distance between a structure and a road or highway right-of-way or property lot line.

Subd. 44.

Shoreland. For the purpose of this ordinance, shoreland shall be that area which is subject to the shoreland regulations as promulgated by Pine County.

Subd. 45.

Structure. Anything which is built, constructed or erected on the ground or attached to the ground; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character, including decks and signs.

Subd. 45a.

Subdivision. The separation of an area, parcel or tract of land under single ownership into two (2) or more parcels, tracts, or lots. (amendment adopted September 2004)

Subd. 46.

Substandard Use. Any use existing prior to the date of this Ordinance which is permitted within the applicable zoning district but does not meet the minimum lot area, frontage, setbacks, water frontage length, or other dimensional standards of this Ordinance.

Subd. 47.

Use. The purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this Ordinance.

Subd. 48.

Variance. The waiving action of the literal provisions of the Zoning Ordinance in instances where their strict enforcement would cause undue hardship because of physical circumstances unique to the individual property under consideration.

Subd. 49.

Yard. An open space on the lot which does not contain structures. A yard extends along a lot line at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located.

Subd. 50.

Yard, Front. A yard extending across the front of the lot between the side lot lines and lying between the front line of the lot and the nearest line of the building.

Subd. 51.

Yard, Rear. A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

Subd. 52.

Yard, Side. A yard between the side line of the lot and the nearest line of the building and extending from the front yard of the lot to the rear yard.

Subd. 53.

Zoning Administrator. A person appointed by the Township Board of Supervisors to enforce the Zoning Ordinance.

Subd. 54.

Zoning Map. The maps or map incorporated into this Ordinance as part thereof, and as amended, designating the zoning districts.

SECTION 3.**ZONING DISTRICT PROVISIONS****Subd. 1.**

Establishment of Districts. The following zoning districts are hereby established within the Township of Pine City:

- A-0, Agricultural – Open Space District
- S, Shorelands District
- SP, Special Protection District

Subd. 2.

Map. The location and boundaries of the districts established by this Ordinance are hereby set forth on the zoning map entitled “Zoning Map,” a copy of which is on file with the Town Clerk. Said maps and all of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this Ordinance by reference. The exact boundary of the shoreland district shall be determined by the Pine County Zoning Administrator.

Subd. 3.

Detachment. In the event of changes in the Town boundaries removing territory from the Town, district boundaries shall be construed as moving with Town boundaries.

Subd. 4.**Zoning District Boundaries.**

- A. Boundaries indicated as approximately following the center lines of streets, highways, alleys or railroad lines shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in shore line shall be constructed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, lakes or other bodies of water shall be construed to follow such center lines.

- D. Boundaries indicated as approximately following the Town boundaries shall be construed as following such boundaries.
- E. Where a district boundary line divides a lot which was in a single ownership at the time of passage of this Ordinance, the extension of the regulations for either portion of the lot may be interpreted by the Zoning Administrator upon request of the owner.
- F. The exact location of all district boundaries shall be interpreted by the Zoning Administrator, subject to appeal as provided in Section 13 of this Ordinance. The exact boundary of the shoreland district shall be determined by the Pine County Zoning Administrator.

Subd. 5.

District Regulations. The regulations of this Ordinance within each district shall be minimum regulations, and shall apply uniformly to each class or kind of structure of land, except as hereinafter provided.

- A. No building, structure, or land shall hereafter be used or occupied, except in conformity with all of the regulations herein specified for the district in which it is located.
- B. No building or other structure shall hereafter be erected, placed, or altered to exceed the height or bulk, to accommodate or house a use, to occupy a greater percentage of lot area, and to have narrower or smaller yards, other than herein required, or in any other manner contrary to the provision of this Ordinance.
- C. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
- D. All new subdivisions of land resulting in lots of less than forty (40) acres shall require a certificate of survey. (Amendment adopted September 2004)
- E. All new subdivisions reviewed by Pine County under the Pine County Subdivision and Platting Ordinance shall require a certificate of survey as a condition of Township approval. (Amendment adopted September 2004)

SECTION 4.**(A-O) AGRICULTURAL – OPEN SPACE DISTRICT****Subd. 1.**

Purpose. The (A-O) Agricultural – Open Space District is intended to accommodate agricultural and residential uses as the predominant uses in areas well served by the existing road system and where services and facilities can be provided in the most cost-effective manner.

Subd. 2.

Permitted Uses. The following uses are permitted:

- A. Farm buildings which are used for purposes related to the operation of the farm.
- B. Farm production which shall include the raising of crops or animals for sale, profit, or pleasure.
- C. Greenhouse or nursery.
- D. Forestry.
- E. Wildlife areas, forest preserves, pastures and other open space uses.
- F. Temporary or seasonal roadside stands for sale of agricultural products.
- G. Single and two family dwellings.
- H. Essential services.

Subd. 3.

Conditional Uses. The following uses may be permitted upon the issuance of a conditional use permit as provided for in Section 11:

- A. Commercial extraction of sand, gravel, black dirt, peat, sod, minerals or rock.
- B. Cemeteries.
- C. Government buildings.
- D. Kennels.

- E. Home occupations, subject to Section 8, Subd. 2.B., of this Ordinance.
- F. Churches.
- G. Transmission Services (Amendment adopted / recorded February 1997)

Subd. 4.

Accessory Uses. The following uses are permitted accessory uses:

- A. Any structure or use which is incidental to the permitted principal use including garages, sheds, fencing, and landscaping.
- B. Recreational facilities which serve the residents of the principal use.
- C. Operation and storage of vehicles, equipment and machinery which is incidental to the permitted principal use.
- D. Home occupations, subject to Section 8, Subd. 2.A., of this Ordinance.

Subd. 5.

Lot Area Requirements. (New lots: does not include existing lots of record.)

- A. **Lot Area.** A lot area of not less than five (5) acres is required, of which an area of at least one and one-half (1 ½) contiguous acre is determined to be buildable.
 - 1. Lot area may be reduced to County minimums if municipal sewer is available and installed.
- B. **Lot Width.** A lot width of not less than three hundred (300) feet frontage on a public road is required.
 - 1. Lot width may be reduced to County minimums if municipal sewer is available and installed.
 - 2. A subdivision of land resulting in a parcel with sixty-six (66) feet of frontage on a public road, created to provide access to an isolated parcel of land, provided:
 - a. The isolated parcel shall have a minimum area of five (5) acres with a minimum lot frontage of three hundred (300) feet and minimum depth of three hundred (300) feet. Five (5) acre minimum lot size shall not include area of sixty-six (66) foot wide access strip.

- b. No other sixty-six (66) foot access strip is located within five hundred (500) feet in either direction on the public road.
 - c. No structure, sewage treatment system, or water supply system may be located on the sixty-six (66) foot access strip.
 - d. No further subdivision of the isolated parcel will be permitted without the approval of a plat which shall include the construction of a road on the access strip. (Amendment adopted August 1998)
3. Lots abutting the turning end of a public or private road cul-de-sac, y-turnaround, or t-turnaround, shall have a minimum lot frontage of sixty-six (66) feet. (Amendment adopted August 1998)

Subd. 6.

Front, Side and Rear Yard Requirements.

- A. **Front Yard.** A front yard is required and shall not be less than the following distance between the centerline of the road or from the right-of-way for 3 or 4, below and building line whichever is greater:
1. State highways – 130 feet from the centerline.
 2. County, County State-Aid and Township roads – 100 feet.
 3. Platted local roads (which are part of a development, or which serve as an extension of the city street system) – 30 feet.
 4. From the right-of-way of any road – 30 feet.
- B. **Side Yard.** Two side yards are required, each having a width of not less than twenty (20) feet.
- C. **Rear Yard.** A rear yard of not less than thirty (30) feet from the rear lot line to the nearest building line is required.

SECTION 5.

(S) SHORELAND DISTRICT

Subd. 1.

Purpose. The Shoreland District (S) is hereby established to regulate the development of shorelands of protected waters within the Town pursuant to Laws of Minnesota.

Subd. 2.

All requirements of the Pine County Shorelands Management Ordinance for the management of shoreland areas shall apply to the Shoreland District of Pine City Township and shall be administered by Pine County.

SECTION 6.

BUILDING REQUIREMENTS**Subd. 1.**

Purpose. The purpose of this Section is to establish building requirements and standards which apply to all districts within the zoning jurisdiction of the Town to assure compatible land uses; to prevent blight and deterioration; and to enhance the health, safety and general welfare of the Town.

Subd. 2.**Building Standards.**

- A. No building shall be permitted on areas considered as wetlands, peat or muck soils, areas having poor drainage.
- B. **Dwelling Size.** All dwellings shall have a minimum finished livable space of at least seven hundred (700) square feet. Additions to manufactured homes shall not be considered in determining area requirements.
- C. **Frost Free Footings.** All dwellings must be placed on frost free footings, foundations or pillars. Such footings shall have a minimum depth of at least five (5) feet.
- D. **Manufactured Homes.** Any manufactured home placed on a lot shall be a U.S. Department of Housing and Urban Development certified unit as evidenced by the HUD certification seal affixed to the unit.
- E. **Design Standards.** The architectural appearance and function of any building and site shall not be so dissimilar to the existing buildings or area as to constitute a blighting influence. Earth sheltered buildings are allowed if in compliance with all other zoning provisions promulgated pursuant to M.S. 462.357.
- F. No garage, tent or accessory building shall at any time be used as an independent residence or dwelling unit, other than allowed for in paragraphs G and H of this section and subdivision.

G. Not more than one (1) dwelling shall be located on a lot, except in cases described herein. In case of doubt or on any question or interpretation, the decision of the Zoning Administrator shall be final, subject to the right of appeal to the Board of Appeals and Adjustments.

1. **Accessory Residences.** A conditional use permit or interim (temporary) residence permit may be issued for an accessory residence to be placed or constructed on the same lot as a proposed principal dwelling in the following cases:

a. **Temporary (Interim) Accessory Residence During Construction of Permanent Dwelling.** In all districts, a twelve (12) month permit, renewable for one additional twelve (12) month period, may be issued to allow a manufactured home to be placed and occupied on the same site as the permanent dwelling is being constructed, provided:

(a.1) The site permit for the permanent dwelling has been issued.

(a.2) An acceptable sewer system has been installed on the site to serve the temporary manufactured home.

(a.3) The accessory residence shall not be subsequently divided from the original parcel or lot unless all density, lot and setback provisions of this Ordinance are met.

b. **Temporary (Interim) Accessory Residence for Health Care Reasons.** A twelve (12) month, renewable permit may be issued to allow a manufactured home to be placed and occupied on the same lot as the principal residence when the person(s) occupying the accessory residence or principal residence requires close supervision due to health reasons, yet are capable of independent living, provided:

(b.1) A documented medical condition must exist requiring the need for a closely supervised independent living arrangement.

(b.2) An acceptable sewer system exists on the site to accommodate the additional structure.

(b.3) The accessory residence shall not be subsequently divided from the original parcel or lot unless all lot, density and setback provisions of this Ordinance are met.

- c. **Accessory Residence for Farm Employees.** A conditional use permit (if the accessory residence is to be permanent) or interim (temporary) use permit (if the accessory residence is temporary) may be issued to allow an accessory residence to be placed or constructed and occupied on a farm to provide housing for a person(s) or family which is actively engaged in the operation of the farm, provided:
- (c.1) The major portion of the livelihood of the person(s) or family residing is derived from the farm.
 - (c.2) An acceptable sewer system exists on the site to accommodate the additional structure.
 - (c.3) The accessory residence shall not be subsequently divided from the farm unless all density, lot and setback provisions of this Ordinance are met.
2. When issuing or renewing an interim (temporary) accessory residence permit or issuing a conditional use permit for an accessory residence, the Town Board may place additional, reasonable conditions on the permit to further the purpose and intent of this Ordinance. The failure to comply with these conditions may result in the revocation of said permit.
3. When conditions change, whereby the purpose and conditions of this section are no longer met, the interim (temporary) accessory residence or accessory farm residence may remain and be occupied through the term of the permit, however, the accessory residence shall be removed from the lot within ninety (90) days of the expiration date of the permit.
- H. **Temporary Dwellings.** Temporary dwellings including travel trailers, campers, tents, recreational vehicles, and other vehicles or structures which are adaptable for living and may be reasonably transported, may only be parked on the parcel and used for dwelling purposes for a period not to exceed thirty (30) consecutive days or more than thirty (30) days of a sixty (60) day period. Only one temporary dwelling may be placed on a parcel or lot, except for short term periods such as family reunions and visits which do not exceed a period of fourteen (14) days. Any deviation from the above restrictions requires an interim use permit. All temporary dwellings shall be removed upon expiration of their use as a temporary dwelling as provided for in this section.

Subd. 3.**Accessory Structures and Uses.**

- A. No sanitary facilities are permitted within an accessory building prior to the construction of the principal structure.
- B. No accessory building, structure or use other than a fence or a temporary construction office shall be permitted on any lot prior to the time of construction of the principal building to which it is accessory except a private garage, which prior to construction of the residence can be used only for storage purposes, pertaining to, and until the completion of the principal structure.
- C. No accessory structure shall be of such an appearance as to constitute a blighting condition or be in such disrepair or deterioration as to be a threat to the health and safety of the Town, or to cause a depreciation in value of adjacent properties.

SECTION 7.

YARD AND LOT AREA REQUIREMENTS

Subd. 1.

Purpose. The purpose of this Section is to determine minimum yard and lot area requirements to be applied to all zoning districts under the jurisdiction of the Town.

Subd. 2.

Yard Requirements. The minimum yard setback distances from the appropriate lot line are set forth within the district provisions of this Ordinance and are in addition to the following requirements:

- A. **Corner Lots.** Where a lot is located at the intersection of two (2) or more roads, the width of the yard along the side road shall not be less than the required front yard.
- B. **Through Lots.** On a lot fronting on two (2) parallel roads, both road lines shall be considered front lot lines for applying the yard regulations of this Ordinance.
- C. **Earth Sheltered Buildings.** Computations for yard requirements shall be based upon measurements from the exposed exterior surface of the building.
- D. **Exceptions.** The following shall not be considered as encroachment into yard setback requirements:
 1. Architectural projections including chimneys, flues, leaders, sills, pilasters, lintels, ornamental features, mechanical devices, cornices, eaves, gutters, and the like, provided they do not extend more than three (3) feet.
 2. Yard lights and signs provided they are located three (3) feet or more from all lot lines. Lights for illuminated parking or loading areas or yards for safety and security purposes may be installed where necessary provided that glare is not visible from public right of way or adjacent residential property.
 3. Off-street parking spaces except as hereinafter regulated.
 4. Fencing not exceeding eight (8) feet in height or screening materials as hereinafter regulated.
 5. The planting of new trees, provided they are not less than eight (8) feet from any property line.

6. In rear yards: recreational and laundry drying equipment, swimming pools, balconies, breezeways, porches, detached outdoor living rooms and decks, and outdoor eating facilities which are above ground and of a permanent nature are allowed, provided these are not less than ten (10) feet from any lot line

Subd. 3.

Lot Area Requirements. The minimum lot area requirements are set forth within the district provisions of this Ordinance.

- A. **Lot Area Exception.** A lot of record existing upon the effective date of this Ordinance which does not meet the area or width requirements of this Ordinance may be utilized provided that the following conditions are met:
 1. All building setback requirements for the district are met.
 2. Each lot has at least one (1) contiguous acre buildable.

SECTION 8.

GENERAL PROVISIONS

Subd. 1.

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

Subd. 2.

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

- A. **Permitted Home Occupations.** Home occupations which employ persons residing in the home and which do not generate waste requiring special treatment or disposal are permitted.
- B. **Home Occupations Requiring a Conditional Use Permit.** Home occupations which employ three (3) or more persons not residing at the home, generate a considerable increase in traffic, parking, noise, or generate wastes which cannot be treated properly by the existing onsite sewage treatment system, or results in any exterior activities including assembly, storage, or display shall require a Conditional Use Permit, and shall meet all standards within this Section and Section 11.
- C. **Performance Standards.** All home occupations shall conform to the following standards:
 1. Conduct of the home occupation does not require alterations to the exterior of the residence which substantially alters the appearance of the dwelling as a residence.
 2. Signage consists of no more than 1 single or double-faced sign with a maximum area of sixteen (16) square feet per side.
 3. The activities, equipment, and materials involved in the home occupation shall be conducted and contained within the home or accessory structure to the principal use, except in those cases when such activities, equipment and materials are being utilized at the present time or in the immediate future, or are not visible from a public road or adjacent residences.

4. The home occupation shall not generate sewage of a nature or type that cannot be treated by a standard onsite sewage treatment system or generate hazardous wastes without an approved plan for offsite disposal.

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

Subd. 3.

Commercial Mining. The per year extraction of sand, gravel, or other material from the land in the total amount of one thousand (1,000) cubic yards or more from the site shall be defined as commercial mining. In all districts, the conduct of commercial mining shall be permitted only upon issuance of a conditional use permit. Commercial mining operations in existence prior to the enactment of this Ordinance, shall apply for a conditional use permit and be subject to the provisions of this Ordinance at any time that the existing mining operation is expanded to or moved to another land parcel. The following requirements shall apply to commercial mining operations:

- A. In addition to the requirements for conditional uses in Section 11, the following information shall accompany the conditional use permit application in writing with necessary maps.
 1. Site Plan
 - a. Area of site
 - b. Proximity of site to lot lines, adjacent structures
 - c. Existing drainage and permanent or temporary ponding areas
 2. Operational Plan
 - a. Placement of structures and equipment
 - b. Location and amount of materials to be removed
 - c. Location and height of materials to be stock piled
 - d. Altered drainage and ponding areas
 - e. Erosion and sediment controls to be used

- f. Dust, noise, and smoke control
 - g. Duration of mining operation
 - h. Hours of operation
 - i. Materials to be produced
 - j. Other activities occurring related to mining activity
3. Reclamation Plan
 - a. Final grade of site
 - b. Vegetative cover
 - c. Use of site
 4. Other information as may be requested by the Planning Commission or Town Board.
- B. The Town Board may require updated operational plans on an annual basis. The approval of the current operational plan shall be a condition of the use permit.
 - C. Any use beyond the extraction and stockpiling, crushing, washing, or processing of materials; such as the production of architectural or structural stone; of the manufacture of asphalt, concrete or concrete building blocks shall be considered a separate use and may be allowed by issuance of a separate conditional use permit.
 - D. The Town Board may place conditions upon the issuance of the permit in addition to those described in Section 11. These conditions may include:
 1. Maintenance standards of site – including weed control, storage and parking of vehicles and equipment.
 2. Drainage and sediment control.
 3. Fencing and screening.
 4. Location and maintenance of access roads and hauling routes.
 5. Dust, noise, and smoke control.
 6. Setbacks from property lines.

7. Hours of operation.
8. Rehabilitation of land and vegetation.
9. Posting of performance bond to reimburse the Town for any costs which may be incurred for the following:
 - a. Costs of bringing the operation into compliance with the conditional use permit requirements.
 - b. Costs of reclamation should the permittee fail to execute any part of a reclamation plan as required within this Ordinance or as a condition of the permit.
 - c. Extraordinary costs of repairing roads due to the special burden resulting from the hauling of materials and traffic associated with the operation. The amount of such cost shall be determined by the Town Board or its agent.

Subd. 4.

Vision Clearance at Corners, Crossings, and Access Points. Notwithstanding any part of this Ordinance or any permit or variance granted, no structure, vehicle, vegetation, fence, sign, building, or any obstacle, or any portion thereof shall be placed or retained in such a manner to constitute a traffic hazard or obstruct the vision clearance of corners, crossings, or access points.

Subd. 5.

Protected Water Alteration. Any alteration which will change or diminish the course, current or cross section of a public water shall be approved by the Commission of the Minnesota Department of Natural Resources, in accordance with the procedures of Minnesota Statute, Section 103G.241 and 103G.245, as amended. This alteration includes the construction or any change to water courses; excavation of lake or stream bottoms for removal of muck, silt or weeds; and filling in the lake or stream bed.

Subd. 6.

Drainage Requirements. No land shall be developed or altered that results in surface water run-off causing unreasonable flooding, erosion, or deposition of minerals on adjacent properties or waterbodies. Such run-off shall be properly channeled into a storm drain, natural water course or drainage-way, ponding area, or other public facility.

Subd. 7.

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

Subd. 8.

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

- A. No use shall be so operated that the storage and or disposal of materials or wastes results in any discharges of matter across the boundaries of the lot wherein such use is located or into the air, water or soil as to endanger the public health, safety, or welfare, or cause injury or damage to property or business.
- B. The pollution of any well, stream, lake, or body of water by sewage, industrial waste, or other substances is prohibited.
- C. The ownership, possession or control of any unused appliances or other containers with doors which fasten automatically when closed and of sufficient size to retain any person, that are exposed and accessible to the public without the removal of the doors, lids, hinges or latches or the locking thereof to prevent access by the public, is prohibited.
- D. The property owner or caretaker of any property shall not allow any, unlicensed, partially dismantled, inoperative, wrecked or junked vehicle to remain on the property longer than thirty (30) days where said vehicle is visible from a public road or adjacent residence. Up to four (4) such vehicles, and where the waste, vehicle, or discarded material stored is equal in bulk to four (4) or more vehicles may be kept on the property, unenclosed, provided that said vehicles are not visible from a public road or adjacent residences. Vehicles shall be screened by buildings or natural vegetation.
 1. All structures, landscaping and fencing shall be reasonably maintained so as not to constitute a blighting condition or be a threat to the public health and safety or cause depreciation of the value of adjacent property.
- E. There shall be no spreading of contaminated (harmful) soils, contaminated liquids or contaminated materials including sewage sludge, water purification residue, and incinerated ash generated from outside the Township; no landfill shall accept waste generated from outside the Township nor shall any demolition rubbish be accepted from outside the Township.
- F. Non-contaminated wood ash from outside the Township generated from non-contaminated sources may be applied if best agricultural management practices are followed. The Township must be notified before application of the wood ashes. (amendment adopted May 2007)

Subd. 9.

Nuisances. Any visual appearance, noise, odors, heat, dust, vibration, smoke, air pollution, glare, electrical interferences, or other such objectionable influences, or the storage or refuse or disposal of wastes that construed by the Town Board to be a menace or nuisance to the public health, safety, or general welfare of the Town, or to have a depressing influence upon property values in the area shall be prohibited. Agriculture shall be exempt from this provision.

Subd. 10.

Administrative Standards. Whenever in the course of administration and enforcement of this Ordinance it is necessary or desirable to make any administrative decision, unless other standards are provided within this Ordinance, the decisions shall be made so that the result will be consistent with the intent and purpose of the Ordinance as described in Section 1, Subd. 2 of this Ordinance.

Subd. 11.

Existing Building Structures and Premises. Nothing in this Ordinance shall prevent or hinder a lawful use present or current use, operation of any existing building structure or premise that is occupied or under operation at the date of passing of this Ordinance.

SECTION 9.**NONCONFORMING BUILDINGS, STRUCTURES AND USES****Subd. 1.**

Purpose. It is the purpose of this Section to provide for the regulation of nonconforming buildings, structures, and uses and to specify those requirements, circumstances, and conditions under which nonconforming buildings, structures, and uses will be operated and maintained. The Zoning Ordinance establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures, and uses not be permitted to continue without restriction. Furthermore, it is the intent of this Section that all nonconforming uses shall be eventually brought into conformity.

Subd. 2.

Any structure or use lawfully existing upon the effective date of this Ordinance shall not be enlarged, except where the structure will be in full compliance with all Township regulations, but may be continued at the size and in the manner of operation existing upon such date except as hereinafter specified or subsequently amended.

Subd. 3.

Nothing in this Ordinance shall prevent the placing of a structure in safe condition. When said structure is declared unsafe by the Zoning Administrator, providing the necessary repairs shall not constitute more than fifty (50) percent of fair market value of such structure. Said value shall be from the Township Assessor's records.

Subd. 4.

No nonconforming building, structure or use shall be moved to another lot or to any other part of the parcel or lot upon which the same was constructed or was conducted at the time of this Ordinance adoption, unless such movement shall bring the nonconformance into compliance with the requirements of this Ordinance.

Subd. 5.

When any lawful nonconforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.

Subd. 6.

A lawful nonconforming use of a structure or parcel of land may be changed to lessen the nonconformity of use. Once a nonconforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the nonconformity.

Subd. 7.

If at any time a nonconforming building, structure, or use shall be destroyed to the extent of more than seventy-five (75) percent of its fair market value, said value to be determined by the Township Assessor, then without further action by the Board, the building and the land on which such building was located or maintained shall, from and after the date of said destruction, be subject to all the regulations specified by these zoning regulations for the district in which such land and buildings are located. Any building which is damaged to an extent of less than seventy-five (75) percent of its value may be restored to its former extent. Estimate of the extent of damage or destruction shall be made by the Zoning Administrator.

Subd. 8.

Normal maintenance of a building or other lawful nonconforming use is permitted, including necessary repairs and incidental alterations which do not physically extent or intensify the nonconforming use.

Subd. 9.

Any proposed structure which will, under this Ordinance, become nonconforming but for which a building permit has been lawfully granted prior to the effective date of this Ordinance, may be completed in accordance with the approved plans; provided construction is started within sixty (60) days of the effective date of this Ordinance. Such structure and use shall thereafter be a legally nonconforming structure and use.

SECTION 10

ADMINISTRATION AND ENFORCEMENT

Subd. 1.

Administrating Officer. This Ordinance shall be administered and enforced by the Zoning Administrator who shall be appointed by the Town Board.

Subd. 2.

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

- A. Determine that all zoning applications and permits comply with the terms of this Ordinance.
- B. Maintain permanent and current records of this Ordinance, including but not limited to, all maps, amendments, conditional uses, variances, appeals and applications thereof.
- C. Receive, file and forward all applications for appeal, variances, conditional uses, amendments, and other matters to the designated official bodies.
- D. Institute in the name of the Town, any appropriate actions or proceedings against a violator as directed by the Town Board.

Subd. 3.

Site Permit Required.

- A. **Scope.** From and after the effective date of this Ordinance, it shall be unlawful to proceed with the construction, placement, or enlargement of the exterior dimension, or changes of use of any building or structure, unless exempt, without first obtaining a site permit. An accessory building 120 square feet or less and on skids shall not require a permit for construction or placement.
- B. **Application.** Requests for site permits shall be filed with the Zoning Administrator on an official application form. Each application for a permit shall be accompanied by a site plan showing the dimensions of the lot to be built upon, the size and location of the principal and accessory buildings and parking areas, and such additional information deemed necessary for the proper review and enforcement of this Ordinance.

- C. **Issuance of Permit.** The Zoning Administrator shall issue the site permit only when the plans comply with this Ordinance and other applicable ordinances and following a staking inspection to determine that all setbacks and dimensional requirements are met.
- D. **Expiration of Permit.** Site permits shall be considered nullified if the proposed action is not completed within a period of one (1) year from the date of issuance. A permit extension may be granted by the Town Board if substantial progress has been made on the project and completion can be accomplished within an identified, reasonable period of time.

Subd. 4.

Fees.

- A. To defray administrative costs of processing requests for site permits, conditional uses, amendments, variances, or appeals, a base fee per application shall be paid by all applicants in accordance with a fee schedule hereby made part of this Ordinance.
- B. In order to defray any additional costs of processing applications (site permit, amendment, conditional use, variance, appeal) for developments, all applicants shall pay the total cost of staff and/or consulting time spent exclusively in producing materials for the applicant's request.
 - 1. "Materials" shall include, but not be limited to maps, graphs, charts, drawings, etc., and all printing or reproduction of same.
 - 2. "Staff and/or consulting time" shall include any time spent in either researching for or actual production of materials.
 - 3. The hourly rate for "staff and/or consulting time" shall be established and made available to the applicant by the Zoning Administrator prior to production of any materials and the applicant shall be given a reasonable estimate of project time and/or materials costs.
- C. Fees shall be payable at the time applications are filed with the Zoning Administrator and are not refundable unless application is withdrawn prior to referral to the Planning Commission. A deposit to cover staff or consulting time and special materials will be established and required by the Zoning Administrator at the time the base fee is paid.
- D. A Late Fee Penalty of double the normal permit fee will be assessed for all permits that are issued after work has been started. (amendment adopted August 1998)

Subd. 5.

Pine County shall be responsible for the administration of all applicable County Ordinances and Regulations, including those addressing shorelands and floodplains.

SECTION 11.

AMENDMENTS AND CONDITIONAL USE PERMITS

Subd. 1.

Procedures for Amendments and Conditional Uses.

- A. Person requesting an amendment or conditional use shall attend a pre-application meeting with the Zoning Administrator for the purpose of reviewing the request, application requirements, and the application review process and timeline.
- B. At any time following the pre-application meeting, requests for amendments or conditional use permits, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall also be accompanied by complimentary copies of detailed written and graphic materials fully explaining the proposed change, development, or use. The Zoning Administrator shall refer said application, along with all related information, to the Town Planning Commission for consideration.
- C. The Zoning Administrator on behalf of the Planning Commission, shall set a date for a public hearing. A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the Town at least ten (10) days prior to the date of the hearing. A similar notice shall also be mailed not less than ten (10) days prior to the hearing to all property owners of record according to the county assessment records, within one quarter (1/4) mile of the affected property. A copy of the notice and a list of the property owners and addresses to which the notices were sent shall be attested to by the Zoning Administrator or Town Clerk and made part of the official hearing record. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.
- D. The Planning Commission shall consider the request and hold a public hearing at its next regular meeting. The Zoning Administrator shall refer said application, along with all related information, to the Town Planning Commission for consideration. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed amendment or conditional use.
- E. The Planning Commission and Town staff shall have the authority to request additional information from the applicant concerning planned use of the property, operational factors, or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, if information is declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance.

- F. The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request to the Town Board.
1. The Planning Commission shall consider possible adverse effects of the proposed amendment or conditional use. Its judgment shall be based upon (but not limited to) the following general factors:
 - a. Relationship to the Town's Comprehensive Plan and Policies.
 - b. The use will not create an excessive demand on public services and facilities.
 - c. The use will be sufficiently compatible or separated by distance or screening from adjacent development or land so that existing development will not be depreciated in value and there will be no deterrence to development of vacant land.
 - d. The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties.
 - e. The use is consistent with the purposes of the zoning ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
 - f. The use will not threaten the health, safety, or general welfare of the Town's residents.
 2. **Conditional Uses.** In considering conditional use requests, the Planning Commission shall evaluate the use, utilizing from the requirements "a" through "j" below, those which are specific to the designated uses as indicated in paragraph 3 below.
 - a. The land area and setback requirements of the property containing such a use or activity shall be at least the minimum established for the district.
 - b. When abutting a residential use in a district permitting residences, the property shall be appropriately screened and landscaped.
 - c. Where applicable, all town, county, state and federal laws, regulations and ordinances shall be complied with and all necessary permits secured prior to bringing requests for conditional use permits to the Planning Commission.
 - d. All signs shall not adversely impact adjoining or surrounding residential uses.
 - e. The road serving the use or activity is of sufficient design to accommodate the proposed use or activity; and such use or activity shall not generate such traffic to create a nuisance or hazard to existing traffic or to surrounding land uses, or result in the need for excessive road improvements or maintenance.

- f. All access roads, driveways, parking areas, and outside storage, service or sales areas shall be surfaced to control dust.
 - g. All lighting shall be designed as to have no direct source of light visible from adjacent residential areas or from the public streets.
 - h. The use of activity shall be properly drained to control surface water runoff and prevent erosion.
 - i. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence.
 - j. Adequate off-road parking and loading shall be provided.
3. **Conditional Use.** The conditional use application shall comply with the minimum specific requirements pertaining to each designated conditional use as stated below.

<u>CONDITIONAL USE</u>	<u>REQUIREMENTS (2, Above)</u>
Kennels, Transmission Services	a, b, c, d, e, f, g, h, i, j
Churches, cemeteries, government buildings, home occupations	a, b, c, d, e, f, g, h, i, j
Extraction of sand, gravel, black dirt, sod, minerals, rock	a, b, c, d, e, f, g, i

4. The Township may impose such additional restrictions or conditions as deemed necessary to protect public interest. When appropriate, restrictive covenants may be entered into regarding such matters. These conditions, in addition to those specific requirements set forth in paragraph E, 2 and 3 of Subdivision 1 of this Section, may include, but are not limited to the following:
- a. Matters relating to the architecture or appearance.
 - b. Establishing hours of operation.
 - c. Increasing the required lot size or yard dimension.
 - d. Limiting the height, size or location of buildings.
 - e. Controlling the location and number of vehicle access points.

- f. Upgrading of roads to accommodate the use.
 - g. Increasing the number of required off-road parking spaces.
 - h. Limiting the number, size, location or lighting of signs.
 - i. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
 - j. Designating sites for open spaces.
- G. Conditional Uses.** All conditions pertaining to a specific site are subject to change when the Planning Commission or Town Board, Upon investigation, finds that the community safety, health, welfare and public betterment can be served as well or better by modifying the conditions.
- H. Conditional Uses and Amendments.** Upon receiving the report and recommendation of the Planning Commission, the Town Board shall place the report and recommendation on the agenda for the next regular meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the Town Board meeting.
- I.** Upon receiving the report and recommendation of the Planning Commission the Town Board shall either:
- 1. Approve or disapprove the request as recommended by the Planning Commission, based upon whether the application meets the requirements stated in the Ordinance.
 - 2. Approve or disapprove the recommendation of the Planning Commission with modifications, alterations, or differing conditions. Such modifications, alterations or differing conditions shall be in writing and made part of the Board's records, or
 - 3. Refer the recommendation back to the Planning Commission for further consideration. This procedure shall be followed only one time on a singular action.
- Approval of a request shall require passage by two-thirds (2/3) vote of the full Town Board. The Zoning Administrator or Town Clerk shall notify the applicant of the Board's action.
- J.** A certified copy of every conditional use shall be filed with the County Recorder.
- K.** The recommendation of the Planning Commission shall be advisory to the Town Board. The decision of the Town Board shall be final subject to judicial review.

Subd. 2.

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

Subd. 3.

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

Subd. 4.

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

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

SECTION 12.**INTERIM USES****Subd. 1.**

Interim Uses. An “interim use” is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

Subd. 2.

Requirements for Interim Uses. An interim use permit may be granted if the following conditions are met:

1. The use conforms to the zoning regulations.
2. The date or event that will terminate the use can be identified with certainty.
3. Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.
4. The user agrees to any conditions that the governing body deems appropriate for permission of the use.

Any interim use may be terminated by a change in zoning regulations.

Subd. 3.

Public Hearing. A public hearing and notification of property owners is required as set forth in Section 11 of this Ordinance.

Subd. 4.

Application Requirements and Review Procedures. The application requirements and application review process is the same as set forth in Section 11, pertaining to conditional uses.

SECTION 13.

VARIANCES AND APPEALS

Subd. 1.

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

- A. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the Zoning Ordinance.
- B. To hear requests for variances from the literal provisions of this Ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration.

Subd. 2.

Procedures.

- A. Persons requesting a variance or appeal shall attend a pre-application meeting with the Zoning Administrator for the purpose of reviewing the request, application requirements, and the application review process and timeline.
- B. At any time following the pre-application meeting, requests for variances or appeals shall be filed with the Zoning Administrator on an official application form. Such application shall also be accompanied by complimentary copies of detailed written or graphic materials fully explaining the proposed request. The Zoning Administrator shall refer said application, along with all related information to the Board of Appeals and Adjustments, for consideration.
- C. The Board of Appeals and Adjustments, shall consider the request at its next meeting. The applicant or a representative thereof shall appear before the Board in order to answer questions concerning the variance request or appeal.
- D. The Board of Appeals and Adjustments and Town staff shall have the authority to request additional information from the applicant or to retain expert testimony, with the consent and at the expense of the applicant, when said information is declared necessary.
- E. The Zoning Administrator, on behalf of the Board of Appeals and Adjustments, shall set a date for a public hearing. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the Town at least ten (10) days prior to the date of the hearing. A similar notice shall also be mailed not less than ten (10) days prior to the

hearing to all property owners of record according to the county assessment records, within five hundred (500) feet of the affected property. A copy of the notice and a list of the property owners and addresses to which the notices was sent shall be attested to by the Zoning Administrator or Town Clerk and made part of the official record. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

F. Following the public hearing, the Board of Appeals and Adjustments shall make a finding of fact. Such findings shall be entered in and made a part of the written record of the Board of Appeals and Adjustments meeting.

1. **Variances.** In considering requests for variances, the Board of Appeals and Adjustments shall make a finding of fact as to whether the request meets all of the following cases.

- a. The proposed action will be in keeping with the spirit and intent of the Comprehensive Plan and Ordinance.
- b. The property in question cannot be put to a reasonable use if used under conditions allowed by this Ordinance.
- c. The plight of the landowner is due to circumstances unique to his property and not created by the landowner.
- d. The variance, if granted, will not alter the essential character of the locality or adversely impact the environment.
- e. The variance requested is the minimum variance which would alleviate the hardship.

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

G. Approval of variances or appeals shall require passage by two-thirds (2/3) vote of the Board of Appeals and Adjustments. The Zoning Administrator or Town Clerk shall notify the applicant of the action. The decisions of the Board of Appeals and Adjustments shall be final subject to judicial review.

H. A certified copy of every variance shall be filed with the County Recorder.

Subd. 3.

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

Subd. 4.

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

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

SECTION 14.

ENVIRONMENTAL REVIEW PROGRAM

Subd. 1.

Purpose. Some development activities may be subject to Environmental Review Program Section which is to provide for the preparation and review of Environmental Assessment Worksheets (EAW) Environmental Impact Statements (EIS) and other environmental documents required under Minnesota Rules, Parts 4410.0200 – 4410.7800 as amended, to implement the Environmental Review Program.

SECTION 15.

PENALTIES AND VIOLATIONS

Subd. 1.

Any person who violates any provision of this Ordinance shall, upon conviction thereof, be guilty of a misdemeanor. Each day that the violation exists constitutes a separate offense. (amendment adopted December 2004)

SECTION 16.

DATE OF EFFECT

Subd. 1.

Date of Effect. The Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Passed and approved this _____ day of _____, _____.

Town Board Chairman

Attest: _____, Town Clerk

SECTION 17.

ORDINANCE AMMENDMENT 2013-1

1. Definitions: Section 2; Subd. 48 Variance. A modification or variance of the strict provisions of this ordinance as applied to a specific piece of property in order to provide relief for a property owner because of a practical difficulty imposed upon the property by this ordinance.

2. Conditional Uses: Section 11; Subd. 1.I.3 Approval by Town Board. Approval of a request shall require passage by majority vote of the Town Board. The Zoning Administrator or Town Clerk shall notify the applicant of the Board's action.

3. Variance and Appeals: Section 13; Subd. 1 B. To hear requests for variances from the literal provisions of this ordinance in instances where their strict enforcement would cause a practical difficulty because of circumstances unique to the individual property under consideration.

4. Variance and Appeals: Section 13; Subd. 2b. At any time following the pre-application meeting, an application for a variance shall be filed with the Zoning Administrator on an official application form. The application shall be accompanied by development plans showing such information as the Zoning Administrator may reasonably require for purposes of this ordinance, and determination of requirement for public hearing. The plans shall contain sufficient information for the Board of Appeals and Adjustments to determine whether the proposed variance will meet all applicable development standards if the variance is granted. In all cases, the application shall include:

1. Name and address of applicant.
2. The legal description of the property involved in the request for variance, including the road address, if any, of the property.
3. The name and address of the owners of the property and any other person having a legal interest therein.
4. A site plan drawn to scale showing the property dimensions.
5. Location of all existing and proposed impervious coverage and building and their size, including square footage.
6. Curb cuts, driveways, access roads, parking spaces, off street parking and sidewalks.
7. Detailed narrative of the proposed use or project as well as reasons for the variance request and why Township should consider approval.
8. The names and addresses of the recorded owners of all property located within 350 feet of all the contiguous property owned by the variance applicant.

Once the application is determined complete, the Zoning Administrator shall refer said application along with all related information to the board of Appeals and Adjustments for consideration.

5.F.1: Variance.

Variations shall only be permitted when they are in harmony with the general purposes and intent of an official control and when the variations are consistent with the comprehensive plan.

Variations may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. "Practical Difficulties" as used in connection with the granting of a variance, means the following:

1. The property owner proposes to use the property in a reasonable manner not permitted by an official control.
2. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
3. The variance, if granted, will not alter the essential character of the Township.

If the variance request meets all the conditions of items 1 thru 3 above, the variance may be granted. Economic considerations alone shall not constitute practical difficulties. The Board of Appeals and Adjustments may impose conditions in the granting of variations, necessary to protect adjacent properties, preserve the public health, safety and welfare and comply with the intent and purpose of this ordinance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

6.G Approval of Variations or Appeals.

Powers: The Board of Appeals and Adjustments shall act in an advisory capacity to the Township Board and have power to make recommendations to the Township Board.

Upon receiving the report and recommendations of the Board of Appeals and Adjustment, such reports shall be entered in and made part of the permanent written record of the Township Board meeting. The Township Board shall approve or deny the application based upon the finding of whether the application meets all of the requirements for a practical difficulty.

7. Under Penalties and Violations Section 15; Subd. 1. Civil penalties will be added: In addition to or as an alternative remedy to penalties set forth in Subd. 1, the Township may elect to pursue a civil action against landowners, person in possession of property, and/or occupants who are in violation of this ordinance upon the following provisions:

1. If the Zoning Administrator finds that any landowner, person in possession of property and/or occupant subject to the provisions of this ordinance is in violation of the provisions of the ordinance the landowner, person in possession of property and/or occupant shall be notified of the violation in writing.
2. If the landowner, person in possession of property and/or occupant fails to comply with this ordinance within 30 days after notification, the Zoning Administrator shall advise the Town Board. If the Town Board determines that the landowner, person in possession of property and/or occupant is in violation it shall order compliance with the ordinance. If the landowner, person in possession of property and/or occupant fails to take action to fully and finally bring the property in to compliance with the ordinance within the time allowed by the Township the matter shall be referred to legal counsel who shall initiate a district court proceeding setting forth the violation, a demand for remediation, correction, abatement or such other and further relief as will end the violation and for legal fees, administrative fees, costs and expense and such actual costs as will be incurred by the Township in undertaking the corrective work, remediation, abatement, or other required work.
3. Recovery of Costs: The owner of the land shall be personally liable for the costs incurred by Township for remediation, correction, abatement or other action necessitated by the violation including legal and administrative fees and costs. Upon completion of work performed or directed by the Township, the Township shall prepare an invoice for the fees, costs and expenses and mail it to the owner of the land. The amount invoiced shall be immediately due and payable to the Town Hall.
4. Assessment: If the Township is fully reimbursed for all its reasonable costs incurred in remediation, correction, abatement or other relief required to terminate a violation hereunder, said costs may be assessed in the manner of a special assessment under Minnesota Statutes, chapter 429 against the lot or property to which costs, charges, and fees are attributed. The Town Board shall certify the assessment to the County Auditor for collection along with real estate taxes for the following year or in annual installments, not exceeding (3) years, as the Town Board may determine in each case.

SECTION 18.**COMMUNICATION TOWERS AND ANTENNAS****Subd. 1.**

Purpose. In order to accommodate the communication needs of residents and business while protection the public health, safety, and general welfare of the community, these regulations are necessary in order to:

- A. Facilitate the provision of wireless telecommunications services to the residents and businesses of the Township of Pine City.
- B. Minimize adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
- C. Encourage towers and antennas to be located, to the extent possible, in areas where the adverse impact on the community is minimal.
- D. Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and
- E. Maximize the use of existing and approved towers to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.

Subd. 2.

Allowed as Conditional Use in the AO District. It shall be unlawful for any person, firm, or corporation to erect, construct in place, place or re-erect, or replace any tower without first making application to the Township of Pine City and securing a conditional use permit therefor as hereinafter provided.

Subd. 3.

Activities Not Requiring Permit. Permits are not required for:

- A. Routine maintenance of towers and related structures shall not require the issuance of a conditional use permit.
- B. Adjustment or replacement of the elements of an antenna array affixed to a tower or antenna, provided that replacement does not reduce the safety factor.

- C. Antennas and/or towers erected temporarily for test purposes, for emergency communication or for broadcast remote pickup operations. Temporary antennas shall be removed within 72 hours following installation.

Subd. 4.

Additional Submittal Requirements. In addition to the information required elsewhere in this ordinance, prior to the issuance of building permit, an applicant for tower antennas shall include the following supplemental information:

- A. A report from a qualified engineer that;
 - 1. Describes the tower and antenna height and design including a cross section and elevation.
 - 2. Documents the approximate height above grade for potential mounting positions for co-locate antennas and minimum separations distances between antennas; and
 - 3. Describe the tower's capacity generally, including the number and type of antennas that it can accommodate.
- B. For all commercial wireless communication service towers, a letter of intent committing the tower owners and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use, including without limitation, reasonable rental rates for such shared use.
- C. A landscape plan showing specific landscape materials.
- D. Method of fencing tower and accessory structures, finished tower color and, if applicable, the method of camouflage illumination.
- E. Plans shall include an engineer's stamp and registration number.

Subd. 5.

Co-Location Requirements. A proposal for a new commercial wireless telecommunication service tower shall not be approved unless it can reasonably be documented by the applicant that the telecommunications equipment planned for the proposed tower cannot be accommodated on the existing or approved tower or building due to one or more of the following reasons:

- A. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by qualified engineer;

- B. The planned equipment would cause interference materially impacting the usability of the other existing or planned equipment at the tower or building as documented by a qualified engineer.
- C. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by qualified engineer.
- D. In spite of best efforts, within sixty (60) days, the applicant is unable to negotiate reasonable business terms regarding the lease or purchase of space on an existing tower;
or
- E. Other reasons affecting technical performance, system coverage, and system capacity that make it impractical to place or locate the planned telecommunications equipment upon an existing or approved tower, as documented by a qualified engineer.

Subd. 6.

Tower Design Requirements. Proposed construction or modification of towers shall meet the following designs requirements.

- A. Any proposed commercial wireless telecommunication tower shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over one hundred fifty (150) feet in height or for one additional user if the tower is over one hundred (100) feet in height. Towers must be designed to allow for future rearrangement of antennas upon the towers and to accept antennas mounting at various heights.
- B. Towers shall be designed to blend into surrounding environment to the maximum extent feasible through the use of color, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
- C. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna related equipment as visually unobtrusive as possible.
- D. Commercial wireless telecommunication service towers shall be of a monopole design unless determined by the Township of Pine City that an alternative design would be necessary to support future potential users.
- E. At a tower site, the design of the buildings and related structures shall, to the extent possible use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

- F. Towers and antennas shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the International Electrical Code.

Subd. 7.

Construction Requirements. All antennas and towers erected, constructed, or located within the Township, and all wiring therefore, shall comply with the following requirements;

- A. All applicable provisions of this ordinance.
- B. No part of any antenna or tower nor any lines, cable, equipment or wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public road, highway, sidewalk, or property line.
- C. Every tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons by erection of a security fence at least six feet in height.

Subd. 8.

Landscaping. The following requirements shall govern the landscaping surrounding towers for which a conditional use permit is required:

- A. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide and six (6) feet height outside the perimeter of the compound.
- B. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited in large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

Subd. 9.

Tower Setbacks. Towers shall meet the setbacks of the underlying zoning district or the special setback requirements set forth in this subdivision, whichever is the greater. Towers shall conform to each of the following minimum setback requirements.

- A. The tower shall not encroach upon any easements. The minimum distance to the nearest residential property shall be equal to the height of the tower. The minimum distance to the nearest residential structure shall be two times the height of the tower.
- B. The setback shall be measured between the base of the tower located nearest the property line and the actual property line.

- C. Towers shall not be located between a principal structure and a public street.
- D. A tower's setback may be reduced or its location in relation to a public street varied, at the discretion of the Board of Adjustments and Appeals, to allow the integration of a tower into an existing or proposed structure such as a church steeple, standard, power line support device, or similar structure.

Subd. 10.

Tower Height. All proposed towers shall not exceed three hundred (300) feet in height.

Subd. 11.

Tower Lighting. Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower; or if required by the Township of Pine City for security or safety reasons. This provision shall not preclude the placement of an antenna on an existing or proposed lighting standard.

Subd. 12.

Signs and Advertising. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

Subd. 13.

Accessory Utility Buildings. All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet such setback requirements as are compatible with the actual placement of the tower. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetation screening better reflects and complements the architectural character of the surrounding neighborhood. Accessory buildings shall not be more than two hundred (200) square feet in size.

Subd. 14.

Antennas Mounted on Roofs, walls, and Existing Towers. The placement of wireless telecommunication antennas on roofs, walls, and existing towers shall be approved by issuance of a Conditional Use Permit based on the submittal and approval of:

- A. A final site and building plan as specified in Subd. 4 of this section.
- B. A report prepared by a qualified professional engineer licensed by the state of Minnesota, indicating the existing structure or tower's suitability to accept the antenna and the

proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings and the precise point of attachment shall be indicated.

Subd. 15.

Existing Light Poles. The replacement of an existing light pole or lighting standards in order to accommodate the placement of an antenna thereupon shall be approved by issuance of a zoning permit based upon administrative review.

Subd. 16.

Interference with Telecommunications. No new or existing telecommunications service shall interfere with the public safety telecommunications, or private telecommunications, including without limitation, radio, television, and personal communications, in accordance with rules and regulations of the Federal Communications Commission.

Subd. 17.

Lawful Existing Antennas and Towers. Antennas and towers in lawful existence s of the date of effect of this ordinance that do not conform to or comply with this section are subject to the following provisions:

- A. Towers may continue in use for the purpose now used and as now existing but may not be replaced or materially altered without complying in all respects with this section.
- B. If such towers are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location, and physical dimensions upon obtaining a building permit therefore, but without otherwise complying with this section, provided, however, that if the cost of repairing the tower to the former use, physical dimensions, and location would exceed the cost of a new tower of like kind and quality then the tower may not be repaired or restored except in full compliance with this section.

Subd. 18.

Abandoned or Unused Towers or Portions of Towers. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be deemed abandoned. At any time that the tower becomes abandoned, the applicant or tower owner shall supply such information to the Township Zoning Administrator or Clerk, the day that the abandonment occurs. The Township Zoning Administrator shall issue the notice to the applicant/tower owners that the tower and all and all associated equipment shall be dismantled and removed from the property within ninety (90) consecutive days from the date of notice from the Township Zoning Administrator. In the event that a tower is not removed within ninety (90) days of the notification, the tower and associated facilities may be removed by the Township. The Township

Board may certify the cost of removal service to the County Auditor as an unpaid service charge which will then be collected together with the property taxes as provided for in Minnesota Statutes 366.012. As an additional or alternative remedy, the owners of the land shall be liable for such costs and said costs shall be recoverable in any action brought against them in the name of the Township. The Township may also require a bond in the amount sufficient to remove the Tower.

SECTION 19.

**PINE CITY TOWNSHIP
PINE COUNTY MINNESOTA**

**SUBSURFACE SEWAGE
TREATMENT SYSTEM ORDINANCE**

THE BOARD OF SUPERVISORS OF PINE CITY TOWNSHIP DOES ORDAIN:

This ordinance authorizes and provides for sewage treatment and soil dispersal in un-sewered areas of the Township. It establishes:

- A. Minimum standards for and regulation of individual sewage treatment systems (ISTS) and mid-sized subsurface sewage treatment systems (MSTS) (collectively referred to as SSTS), incorporating by reference minimum standards established by Minnesota statutes and administrative rules of the Minnesota Pollution Control Agency (MPCA).
- B. Requirements for issuing permits for installation, alteration, repair or expansion of SSTS.
- C. Requirements for all SSTS permitted under the Minnesota Rules, Chapter 7080 and 7081 to be operated under an approved management plan.
- D. Standards for upgrade, repair, replacement, or abandonment of SSTS.
- E. Penalties for failure to comply with these provisions.
- F. Provisions for enforcement of these requirements.
- G. Standards which promote the health, safety, and welfare of the public as reflected in Minnesota Statutes sections 115.55, 145.05, 462, and 471.82.

ARTICLE 1. PURPOSE AND INTENT**1.1 Purpose.**

The purpose of this ordinance shall be to provide minimum requirements for regulation of ISTS and MSTs for the treatment and dispersal of sewage within the applicable jurisdiction of the Township to protect public health and safety, groundwater quality, and prevent or eliminate the development of public nuisances. It is intended to serve the best interests of the Township's citizens by protecting its health, safety, general welfare, and natural resources.

1.2 Intent.

It is intended by the Township that this Ordinance will promote the following:

- A. The protection of lakes, streams, wetlands, and groundwater in Pine City Township essential to the promotion of public health, safety, welfare, socioeconomic growth and development within the community.
- B. The establishment of minimum standards for SSTS ceasing, placement, construction, reconstruction, repair, and maintenance to prevent contamination of surface water and groundwater quality.
- C. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
- D. The provision of technical assistance and education, plan review, inspections, SSTS surveys and complaint investigations regarding SSTS.

1.3 Authority.

This Ordinance is adopted pursuant to Minnesota Statutes 115.55, 145A.01 through 145A.08, 375.51, or successor statutes, and Minnesota Rules, Chapters 7081, 7082, or successor rules.

1.4 Effective Date.

The provisions set forth in this Ordinance shall become effective on _____.

ARTICLE 2. DEFINITIONS.

Certain terms, in addition to the definitions in chapters 7080, 7081, and 7083 and Minnesota Statutes, section 115.55 which are incorporated by reference, the following words and phrases shall have the meanings ascribed to them in this subdivision. If not specifically defined in this subdivision, terms used in this Ordinance shall have the same meaning as provided in the standards adopted by reference. Words or phrases that are not defined here or in the standards adopted by reference shall have common usage meaning. For purposes of this Ordinance, the words “must” and “shall” are mandatory and the words “may” and “should” are permissive.

- **Bedroom:** A room designed or used for sleeping, or a room or area of a dwelling having a minimum floor area of 70 square feet with access gained from the living area or living area hallway.
- **Existing Systems:** All operating systems installed before the adoption of this Township permitting ordinance and systems that have been previously inspected and approved by the Township during installation.
- **ISTS:** An individual sewage treatment system having a design flow of no more than 5,000 gallons per day.
- **MSTS:** A sewage treatment system, under single ownership that receives sewage from dwellings or other establishment having a design flow of more than 5,000 gallons per day to a maximum of 10,000 gallons per day.
- **New System:** Installation or construction a new SSTS, or altering, extending, or adding capacity to a system that has been issued an initial certificate compliance.
- **Township:** Pine City Township
- **Township Board:** Pine City Township Board of Supervisor
- **Township Agent:** Designated employee of the Township
- **Township Inspector:** An employee designated by the Township Board to inspect and evaluate design, installation, and maintenance of SSTS.
- **SSTS:** Subsurface Sewage treatment system including ISTS, MSTS, and LSTS.

ARTICLE 3. GENERAL PROVISIONS**3.1 Scope.**

All design, installation, alteration, repair, maintenance, operation, pumping and inspection activities for SSTS within the Township shall be completed by a Minnesota Pollution Control Agency (MPCA) licensed business or individual, an appropriately certified employee, or a person exempted as described in Minnesota SSTS Chapter 7083, as amended.

3.2 Jurisdiction.

This Ordinance shall apply throughout unincorporated areas of Pine City Township **excluding shore land management areas, (1000 feet from lake shore and feet from river shore)**. Such Ordinance must be reviewed by the MPCA as required in Minnesota Rule 7082.0040 Subpart 3.

3.3 Other Agencies.

The MPCA jurisdiction requires owners or operators of all group or individual sewage treatment Systems designed to treat an average flow greater than 10,000 gallons per day must make application for, and receive, a State Disposal System Permit. For any SSTS that has measured average daily flow of over 10,000 gallons per day over a seven day period, a state disposal permit is required.

3.4 Validity.

If a court of competent jurisdiction adjudges any section, clause, provision or portion of this ordinance unconstitutional or invalid, the remainder of this ordinance shall not be affected thereby.

3.5 Liability.

No liability or responsibility shall be imposed upon the Township or any of its officials, employees, or other contract agent, its employees, agents or servants thereof for damage

resulting from the construction, operation, or abandonment of any SSTS regulated under this rule by reason of standards, requirements or inspections authorized here under.

ARTICLE 4. GENERAL REQUIREMENTS**4.01 Retroactivity.****4.01.01 All SSTS.**

Except as explicitly set forth in Subdivision 4.01.02, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally installed.

4.01.02 Existing Permits.

Unexpired permits which were issued prior to the effective date shall remain valid under the terms and conditions of the original permit until the original expiration date.

4.01.03 SSTS on Lots Created After January 23, 1996.

All lots created after January 23, 1996 must have a minimum of two soil treatment and dispersal areas that can support a standard "Type 1" soil treatment system or site conditions described in 7081.0270, subparts 3 to 7 as applicable. A cluster SSTS that have a common interest lot where a central system is located shall meet this requirement by having the minimum of two soil treatment and dispersal areas on the designated lot.

4.02 Upgrade, Repair, and Replacement.**4.02.01 SSTS Capacity Expansions.**

Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Ordinance at the time of the expansion.

4.02.02 Failure to Protect Groundwater.

An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rules, Chapter 7080.1500, Subp. 4.B shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 18 months of receipt of a Notice of Noncompliance.

4.02.03 Imminent Threat to Public Health or Safety.

An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minnesota Rules, Chapter 7080.1500, Sub. 4A shall be

upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 10 months of receipt of a Notice of Noncompliance.

4.03 SSTS in Floodplains.

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 local requirements are met.

4.04 Class V Injection Wells.

All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required to submit SSTS inventory information to the Environmental Protection Agency (EPA). Further, owners are required to identify all Class V injection wells in property transfer disclosures.

4.05 SSTS Practitioner Licensing.

No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance or pumping of SSTS without an appropriate and valid license issued by MPCA in accordance with Minnesota Rules, Chapter 7083 except as exempted in 7083.0700 Subp. A to Subp. I.

4.06 Prohibitions.

4.06.01 Occupancy or Use of a Building without a Compliant SSTS.

It is unlawful for any person to maintain, occupy, or use any building intended for habitation unless it has a wastewater treatment system that disposes of wastewater in a manner that complies with the provisions of this Ordinance.

4.06.02 Sewage Discharge to Ground Surface or Surface Water.

It is unlawful for any person to construct, maintain, or use any SSTS system regulated under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the MPCA.

4.06.03 Sewage Discharge to a Well or Boring.

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

4.06.04 Discharge of Hazardous or Deleterious Materials.

It is unlawful for any person to discharge into any treatment system regulated under this Ordinance any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

ARTICLE 5. SSTS STANDARDS**5.01 List of Adopted Standards.**

A design flow determination for dwellings will be designed for class 1 buildings only. The design flow for bedrooms is determined by multiplying 150 gallons by the number of bedrooms.

5.01.01 Determination of Hydraulic Loading Rate and SSTS Sizing.

Table IX “Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detailed Soil Descriptions” and Table IXa entitled “Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Percolation Tests” from Minnesota Rules, Chapter 7080.2150, Subp. 3(E) are herein adopted by reference and either shall be used to size SSTS infiltration areas for SSTS design.

5.01.02 Compliance Criteria for Existing SSTS.

SSTS built before April 1, 1996, that is not located in Shoreland area, wellhead protection area, or is not a commercial establishment where food, beverage, or lodging are served or provided, must have at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock. SSTS built after March 31, 1996 or SSTS located in a Shoreland area, wellhead Protection area, or serving a food, beverage, or lodging establishment as defined under 7080.1100, Subp. 84 shall have a three-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Existing systems that have no more than a 15 percent reduction in this separation distance (a separation distance no less than 30.6 inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics may be considered compliant under this Ordinance. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil. 7080.1500, Subp. 4.

5.01.03 Holding Tanks.

- A. Holding tanks may be allowed in any of the following applications:
 1. For legal lots of record where it can be shown conclusively that a Type I SSTS permitted under this Ordinance cannot be feasibly installed;

2. Where there is limited water use such as seasonal properties, sensitive sites, parks, playgrounds, etc.;
 3. As temporary disposal method to alleviate an imminent threat to public health or during construction, repair, or replacement of new and existing systems.
- B. Holding tanks must be used under the following conditions:
1. The owner shall install a holding tank in accordance with Minnesota Rules Section 7080.2290;
 2. The owner shall install a water meter to continuously record indoor water use;
 3. The owner shall maintain a valid contract with a licensed maintainer to pump and dispose of septage according to the applicable standards in Code of Federal Regulations, title 40, part 503; and
 4. The owner must maintain current and historical records of maintainer pumping; volume of liquid removed; and the water meter reading at the time of pumping; all for Department review upon request. Volumes removed shall coincide with metered water use readings.

5.01.04 Privies.

Privies are permitted provided they meet vertical separation and/or vault guidelines depicted in MN State Rules 7080.2150 and 7080.2280.

5.02 Variances.

5.02.01 Variances Requests.

A property owner may request a variance from the standards as specified in this Ordinance pursuant to Township policies and procedures.

ARTICLE 6. SSTS PERMITTING**6.01 Permit Required.**

It is unlawful for any person to construct, install, modify or replace a SSTS without the appropriate permit from the Township. The issuing of any permit, variance, or conditional use under the provisions of this Ordinance shall not absolve the applicant of responsibility to obtain any other required permit.

6.02 Construction Permit.

A construction permit must be obtained by the property owner or an agent of the property owner from the Township prior to the installation, construction, replacement, modification, alteration, repair, or capacity expansion of a SSTS. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and constructed in accordance with the provisions of this Ordinance by appropriately certified and/or licensed practitioner(s).

6.02.01 Activities Requiring a Construction Permit.

A construction permit is required for installation of a new SSTS, for replacement of an existing SSTS, or for any repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.

6.02.02 Activities Not Requiring a Permit.

A construction permit is not required for minor repairs or replacements of system components that do not alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout or function.

6.02.03 Permit Application Requirements.

All information requested on application forms provided by the Township shall be provided along with the following exhibits:

- A. Appropriate fees
- B. Cover sheet with business name, summarizing the design and system technical standards
- C. Soil & Site evaluation report

- D. System Design Plans and Reports
- E. System management, maintenance agreements or operating permits
- F. Copies of any recorded documents required under this Ordinance
- G. Any other information requested by the Township
- H. Contact information for designers, evaluators, inspectors, etc.

6.02.04 Application Review and Response.

The Township shall review a permit application and supporting documents. Upon satisfaction that the proposed work will conform to the provisions of this Ordinance, The Township Agent shall issue a written permit authorizing construction of the SSTS as designed. In the event the applicant makes a significant change to the approved application, the applicant must file an amended application detailing the changed conditions for approval prior to initiating or continuing construction, modification, or operation for approval or denial. The Township shall complete the review of the amended application within 15 working days of receipt of the amended application. If the permit application is incomplete or does not meet the requirements of this Ordinance, the Township shall deny the application. A notice of denial shall be provided to the applicant, which must state the reason for the denial.

6.02.05 Appeal.

The applicant may appeal the Township's decision to deny the construction permit in accordance with the Township's established policies and appeal procedures.

6.02.06 Permit Expiration and Renewal.

Township SSTS permits shall expire or be renewed upon the expiration of one (1) year.

6.02.07 Suspension or Revocation.

The Township Agent may suspend or revoke a construction permit issued under this section for any false statements, misrepresentation of facts on which the construction permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout or function. A notice of suspension or revocation and the

reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid construction permit is obtained.

6.02.08 Posting.

The construction permit shall be posted on the property in such a location and manner so that the permit is visible and available for inspection until construction is completed and certified.

6.03 Operating Permit.

6.03.01 SSTS Requiring an Operating Permit.

An operating permit shall be required of all owners of Type IV, V, MSTS or any other system deemed by the Township Agent to require operational oversight. Sewage shall not be discharged to a MSTS until the Land Services Department certifies that the MSTS was installed in substantial conformance with the approved plans, receives the final record drawings of the MSTS, and a valid operating permit issued to the owner.

6.03.02 Operating Permit Application Requirements.

- A. Application for an operating permit shall be made on a form provided by the Township including:
 - 1. Owner name, mailing address, telephone and email address;
 - 2. Construction permit reference number and date of issue;
 - 3. Final record drawings of the treatment system; and
 - 4. Owners of holding tanks must submit a copy of a valid executed monitoring and disposal contract with a licensed maintenance business.
- B. Monitoring and Disposal Contract
- C. Owners of holding tanks shall provide to the Township a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with Minnesota Rules, Chapter 7082.0100, Subp. 3G. This

requirement is waived if the owner is a farmer who is exempt from licensing under Minnesota Statutes §115.56, Subd. 2(b)(3).

6.03.03 Township Response.

The Township Agent 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 Department. If the submitted documents fulfill the requirements, the Department shall issue an operating permit within 10 working days of receipt of the permit application.

6.03.04 Operating Permit Terms and Conditions.

The operating permit shall include the following (see Minnesota Rules, Chapter 7082.0600, Subp. 2B):

- A. System performance requirements;
- B. System operating requirements;
- C. Monitoring locations, procedures and recording requirements;
- D. Maintenance requirements and schedules;
- E. Compliance limits and boundaries;
- F. Reporting requirements;
- G. Township notification requirements for noncompliant conditions;
- H. Valid contract between the owner and a licensed maintenance business;
- I. Disclosure, location and condition of acceptable soil treatment and dispersal system site; and
- J. Descriptions of acceptable and prohibited discharges.

6.03.05 Amendments to Existing Permits not Allowed.

The Township may not amend an existing permit to reflect changes in this Ordinance until the permit term has expired (permits are good for one year) and is renewed, unless an amendment is necessary to eliminate an imminent threat to public health or safety.

6.03.06 Transfers.

The operating permit may be transferred. The new owner shall notify the Township of their ownership within 60 days of the sale of a property operated under an operating permit.

6.03.07 Suspension or Revocation.

- A. The Township may suspend or revoke any operating permit issued under this section for any false statements or misrepresentation of facts on which the operating permit was issued.
- B. Notice of suspension revocation and the reasons 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 Article 4.
- D. At the Township's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

6.03.08 Compliance Monitoring.

- A. Performance monitoring of a 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 serving activities performed since the last compliance monitoring report as described below:
 - 1. Owner name and address;
 - 2. Operating permit number;
 - 3. Average daily flow since last compliance monitoring report;
 - 4. Description of type of maintenance and date performed;
 - 5. Description of samples taken (if required), analytical laboratory used, and results of analyses;
 - 6. Problems noted with the system and actions proposed or taken to correct them; and
 - 7. Name, signature, license and license number of the licensed professional who performed the work.

6.04 Abandonment Certification.**6.04.01 Purpose.**

The purpose of the System Abandonment Certification is to ensure that a treatment system with no future intent for use be abandoned within a reasonable time following decommissioning and in a manner that protects public health, safety and water quality. It also terminates all permits associated with the system.

6.04.02 Abandonment Requirements.

- A. Whenever the use of a SSTS or any system component is discontinued with no future intent of use as the result of a system repair, modification, replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this Ordinance shall be prohibited.
- B. An owner of a SSTS must retain a licensed installation business to abandon all components of the treatment system within 60 calendar days of a system. Abandonment shall be completed in accordance with Minnesota Rules, Chapter 7080.2500. No prior notification of the Township of an owner's intent to abandon a system is necessary.
- C. A report of abandonment certified by the licensed installation business shall be submitted to the Township. The report shall include:
 1. Owner's name and contact information;
 2. Property address;
 3. System construction permit and operating permit;
 4. The reason(s) for abandonment; and
 5. A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals.

6.04.03 Abandonment Certificate.

Upon receipt of an abandonment report and its determination that the SSTS has been abandoned according to the requirements of this Ordinance, the Township shall issue an abandonment certificate. If the abandonment is not completed according to the requirements of this Ordinance, the Township shall notify the owner of the SSTS of the deficiencies, which shall be corrected within 30 calendar days of the notice.

ARTICLE 7. MANAGEMENT PLANS**7.01 SSTS Requiring Management Plans.**

Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the Township with the construction permit application for review and approval. The Township shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification.

7.02 Required Contents of a Management Plan.

Management plans shall include (Minnesota Rules, Chapter 7082.0600, Subp. 1):

- A. Operating requirements describing tasks that the owner can perform and tasks that licensed service provider or maintainer must perform;
- B. Monitoring requirements;
- C. Maintenance requirements including maintenance procedures and a schedule for routine maintenance;
- D. Statement that the owner is required to notify the Township Agent when the management plan requirements are not being met;
- E. Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence; and
- F. Other requirements as determined by the Township Agent.

7.03 Requirements for Systems not Operated under a Management Plan.

Minnesota Rules Chapter 7082.0100, Subp. 3(L) requires SSTS that are not operated under a management plan or operating permit should have treatment tanks inspected and provide for the removal of solids if needed every three years. Solids must be removed when their accumulation meets the limit described in Minnesota Rules, Chapter 7080.2450.

ARTICLE 8. COMPLIANCE MANAGEMENT**8.01 Compliance Inspection Program.****8.01.01 Township Responsibility.**

The Township, or its agent, may perform various SSTS compliance inspections as necessary or required.

- A. SSTS compliance inspections may be performed:
 1. To ensure compliance with applicable requirements.
 2. Whenever a permit or variance of any type is required for an improvement on, or use of, the property in shoreland areas of the Township as defined in the Pine County Shoreland Management Ordinance.
 3. For all new SSTS construction or replacement.
 4. Prior to the sale of a property which is required to be serviced by a SSTS.
 5. For an evaluation, inspection, recommendation, or other process used to prepare a disclosure statement if conducted by a party who is not the SSTS owner. Such an inspection constitutes a compliance inspection and shall be conducted in accordance with Minnesota Rules, Chapter 7082.0700 using the SSTS inspection report forms provided by MPCA.
- B. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.

8.01.02 New Construction or Replacement.

- A. Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081.
- B. It is the responsibility of the SSTS owner or the owner's agent to notify the Township two calendar days prior to any permitted work on the SSTS.
- C. A certificate of compliance for new SSTS construction or replacement, which shall be valid for five years, shall be issued by the Township if the Township has reasonable assurance that the system was built in

accordance with the applicable requirements as specified in the construction permit.

- D. The certificate of compliance must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those ordinance provisions with which the SSTS does not comply.
- E. The certificate of compliance or notice of noncompliance must be submitted to the Township no later than 15 calendar days after the date the inspection was performed. The Township shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within 15 calendar days of receipt from the certified inspector. No SSTS shall be placed into operation until a valid certificate of compliance has been issued.
- F. Certificates of compliance for new construction or replacement shall remain valid for five years from the date of issue unless the Township finds evidence of noncompliance.
- G. SSTS that are managed by an operating permit must be maintained, monitored or otherwise managed according to the operating permit. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Township's requirements.

8.01.03 Existing Systems.

- A. Compliance inspections shall be required when any of the following conditions occur:
 - 1. When a construction permit is required to repair, modify, or upgrade an existing system.
 - 2. Any time there is a change in use of the property being served by an existing SSTS which may impact the performance of the system
 - 3. At the time of property sale or transfer (see 8.01.04)
 - 4. At any time an increase in the number of bedrooms of a dwelling which requires a permit from the township
 - 5. Any permit or variance application within the shoreland
 - 6. When an operating permit is to be renewed

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7. At any time as required by this Ordinance or the Township deems appropriate such as upon receipt of a complaint or other notice of a system malfunction
- B. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions must be assessed or verified:
 1. Water tightness assessment of all treatment tanks including a leakage report;
 2. Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including a vertical separation verification report; and
 3. Sewage backup, surface seepage, or surface discharge.
 - C. The certificate of compliance must include a certified statement by a Qualified Employee or licensed inspection business, indicating whether the SSTS is in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those ordinance provisions with which the SSTS does not comply. A construction permit application must be submitted to the Township if the required corrective action is not a minor repair.
 - D. The certificate of compliance or notice of noncompliance must be submitted to the Township no later than 15 calendar days after the date the inspection was performed. The Township shall deliver the certificate of compliance or notice of noncompliance to the owner or the other's agent within 15 calendar days of receipt from the licensed inspection business.
 - E. Certificates of compliance for existing SSTS shall remain valid for three years from the date of issue unless the Township finds evidence of noncompliance.

8.01.04 Transfer of Properties.

- A. Whenever a conveyance of land upon which a dwelling is located, or a tract of land upon which a dwelling is located, or a tract of land upon which a structure that is required to have a SSTS occurs, the following requirements shall be met:
1. A compliance inspection has been performed and a certificate of compliance has been issued and on file with the Township Agent within three years for SSTS older than five years or within five years if the system is less than five years old prior to the intended sale or transfer of the property, unless evidence is found identifying an imminent threat to public health or safety;
 2. The compliance inspection must have been performed by a Qualified Employee of the Township or a licensed inspection business following procedures described in Section 8.01.03 of this Ordinance;
 3. The seller of the property must disclose in writing information about the status and location of all know ISTS on the property to the buyer on a form acceptable to the Township.
 4. If the seller fails to provide a certificate of compliance, sufficient security in the form of an escrow agreement to assure the installation of a complying ISTS shall be established. The security shall be placed in an n escrow with a licensed real estate closer, licensed attorney-at-law, or federal or state chartered financial institution. The amount escrowed shall be equal to 150% of a written estimate to install a complying ISTS provided by a licensed and certified installer, or the amount escrowed shall be equal to 110% of the written contract for the installation of a complying ISTS provided by a licensed and certified installer. After a complying SSTS has been installed a certificate of compliance issued, the Township shall provide the escrow agent a copy of the certificate of compliance.
 5. In absence of the escrow account according to Section 8.01.04, Subp. A (4) above, the buyer shall be responsible for the necessary inspection and upgrading of said SSTS.

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- B. The compliance portion of the certificate of compliance need not be completed if the sale or transfer involves the following circumstances:
1. The affected tract of land is without buildings or contains no dwellings or other buildings with plumbing fixtures.
 2. The transfer does not require the filing of a Certificate of Real Estate Value as described in Minnesota Statutes 272.115, Sub. 1.
 3. The transfer is a tax forfeiture.
 4. The sale or transfer completes a contract for deed or purchase agreement entered into prior to the effective date of the Ordinance. This subsection applies only to the original vendor and vendee on such a contract.
 5. Any dwellings or other buildings that are connected exclusively to a municipal wastewater treatment system; any dwellings or other buildings that are located within the jurisdiction of a county approved agreement requiring exclusive connection to the wastewater treatment system of any municipality; or any dwellings or other buildings that are connected exclusively to an approved wastewater treatment facility other than an individual sewage treatment system.
- C. All property conveyances subject to this Ordinance occurring during the period between November 15 and April 15, when SSTS compliance cannot be determined due to frozen soil conditions, shall require a winter agreement, which includes an application for a SSTS permit and an agreement to complete a compliance inspection by the following June 1 by a licensed inspection business. If upon inspection the SSTS is found to be in compliance, the permit fee will be refunded. If upon inspection the system is found to be noncompliant, an escrow agreement must be established in accordance with Section 8.01.04 A (4) above, and the system upgraded.
- D. The responsibility for filing the completed compliance portion of the certificate of compliance under 2.01.04 A, above, or for upgrading a system found to be noncompliant shall be determined by the buyer and seller. Buyer and Seller shall provide the Township Agent with a signed statement indicating responsibility for completing the compliance portion of the Certification and for upgrading a system found to be non-conforming.

- E. Neither the issuance of permits, certificates of compliance, or notices of noncompliance as requested or issued shall be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or noncompliance with the provisions of these standards and regulations.

ARTICLE 9. ENFORCEMENT**9.01 Violations.****9.01.01 Cause to Issue a Notice of Violation.**

Any person, firm, agent, or corporation who violates any of the provisions of this Ordinance, or who fails, neglects, or refuses to comply with the provisions of this Ordinance, including violations of conditions and safeguards, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provision hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as defined by Minnesota State Statutes. Each day that a violation exists shall constitute a separate offense.

9.01.02 Notice of Violation.

The Township shall serve, in person or by mail, a notice of violation to any person determined to be violating provisions of this Ordinance. The notice of violation shall contain:

- A. A statement documenting the findings of fact determined through observations, inspections, or investigations;
- B. A list of specific violation(s) of this Ordinance;
- C. Specific requirements for correction or removal of the specified violation(s); and
- D. A mandatory time schedule for correction, removal and compliance with this Ordinance.

9.01.03 Cease and Desist Orders.

Cease and desist orders may be issued when the Township Agent has probable Cause that an activity regulated by this or any other county ordinance is being or has been conducted without a permit or in violation of a permit. When work has been stopped by a cease and desist order, the work shall not resume until the reason for the work stoppage has been completely satisfied, any administrative fees paid, and the cease and desist order lifted.

9.02 Prosecution.

In the event of a violation or threatened violation of this Ordinance, the Agent may, in addition to other remedies, initiate appropriate civil action or proceedings to prevent, prosecute, restrain, correct or abate such violations or threatened violations. The Township may take such actions as may be necessary to enforce the provisions of this Ordinance.

9.03 Cost and Reimbursements.

If the Township is required to remove or abate an imminent threat to public health or safety, the Township may recover all costs incurred in removal or abatement in a civil action, including legal fees; at the discretion of the Township Board, the cost of an enforcement action under this Ordinance may be assessed and charged against the real property on which the public health nuisance was located.

9.04 State Notification of Violation.

The Township should notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS by a licensed/certified person or any waste removal by a licensed pumper that is performed in violation of the provisions of this Ordinance.

ARTICLE 10. RECORD KEEPING

The Township should maintain a current record of all permitted systems. The record should contain all permit applications, issued permits, fees assessed, variance requests, certificates of compliance, notices of noncompliance, enforcement proceedings, site evaluation reports, design reports, record drawings, management plans, maintenance reports, an annual list of all sewage tanks installed in the Township sorted by licensed installation businesses, and other records relevant to each system.

ARTICLE 11. DISPUTE RESOLUTION PROCEDURES

- A. In the event of a dispute between two designers on whether the soil or design meets the minimum requirements of the ordinance the Township shall review the site, upon request, and make the final determination.
- B. In the event that a designer and the Township have a dispute related to the design or soils meeting the minimum requirements of the ordinance the Township shall meet with the designer onsite to review the soils and design. If the dispute is unresolved the Township and designer shall request a mutually agreeable soil scientist to review the site. The applicant shall provide a deposit in an amount to be determined by the Township to cover the cost of the soil scientist and Township review. Both parties shall agree in writing that the soil scientist findings shall be final. If the scientist determines the Township correctly interpreted the soils, the deposit will be retained and used to pay the scientist and Township, with any extra money refunded to the applicant. If the soil scientist determines the designer was correct, the deposit shall be refunded and the Township will pay for the cost of the soil scientist review. If soils are reviewed with the soil scientist that was not previously reviewed by the Township the Township shall retain the deposit. All reviews with the soil scientist shall be conducted in a pit that is a minimum of 4 feet by 4 feet with a depth of at least 3 feet below the bottom of the proposed system or until bedrock or the water table, whichever is less.

ARTICLE 12. ANNUAL REPORT

The Township should provide an annual report of SSTS permitting activities to MPCA no later than February 1 for the previous calendar year.

ARTICLE 13. FEES

From time to time, the Township Board shall establish fees for activities undertaken by the Township pursuant to this Ordinance. A fee of \$300.00 shall be due and payable at a time and in a manner to be determined by the Township.

ARTICLE 14. INTERPRETATION

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Township and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.

ARTICLE 15. SEVERABILITY

If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this Ordinance shall not be affected and shall remain in full force.

ARTICLE 16. ABROGATION AND GREATER RESTRICTIONS

It is not intended by this Ordinance to repeal, abrogate, or impair any other existing Township ordinances, easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

ARTICLE 17. ORDINANCE REPEALED

This Ordinance repeals the Individual Sewage Treatment Systems Ordinance of Pine City Township adopted June 6, 2000.

ARTICLE 18. ADOPTION

The Pine City Township Subsurface Sewage Treatment Program Ordinance is hereby adopted by the Pine City Township Board of Supervisors on _____.

Chair, Pine City Township Board of Supervisors

Attest:

Drafted by:

Pine City Township Planning Commission
21977 St. Croix Rd
Pine City, MN 55063

SECTION 20.

PINE CITY TOWNSHIP RIGHT-OF-WAY ORDINANCE

SECTION 1. UTILITY, EXCAVATIONS AND OBSTRUCTIONS1.1 Elect to Manage.

The Board hereby elects, pursuant to Minnesota Statutes, section 237.163, subdivision 2, to manage Rights-of-Way under its jurisdiction under Minnesota Statutes, sections 237.162 and 237.163, and all other applicable laws, for the purposes of Minnesota Rules chapter 7819.

1.2 Definitions.

In addition to the definitions set out in this ordinance, the following terms shall have the meaning given here for the purposes of this section.

- A. **Applicant.** A Person who submits a Permit Request for an Excavation Permit or an Obstruction Permit in accordance with this section.
- B. **Excavate.** “Excavate” means to dig into, trench, or in any way remove, physically disturb, or penetrate a part of the Right-of-Way.
- C. **Excavation Permit.** “Excavation Permit” means a permit issued to an Applicant to Excavate within a Right-of-Way.
- D. **Facility.** “Facility” or “Facilities” mean any tangible asset in the Right-of-Way required to provide utility service.
- E. **Obstruct.** “Obstruct” means to hinder the free and open passage of any portion of a Right-of-Way for more than two hours or on more than one lane of traffic.
- F. **Obstruction Permit.** “Obstruction Permit” means a permit issued to an Applicant to Obstruct a Right-of-Way.
- G. **Permit Request.** “Permit Request” means a request to obtain an Excavation Permit or Obstruction Permit made on the Board approved application form or, if none, in a writing containing all the information required by this section.
- H. **Permit-tee.** “Permit-tee” means a Person to whom the Board has issued an Excavation Permit or Obstruction Permit under this section.

1.3 Permit Required.

Except in emergencies, no Person may Excavate or Obstruct a Right-of-Way without first obtaining a permit from the Board. An Excavation Permit is required to excavate any portion of a Right-of-Way for the purpose of placing, repairing, or removing Facilities. An Obstruction Permit is required to obstruct a Right-of-Way. To obtain a permit, a Person must provide the Town Clerk, or designee, a written Permit Request for the proposed Excavation or Obstruction as provided in this section. If a proposed Excavation project includes an Obstruction at the same site, an Applicant need not submit a separate Permit Request for an Obstruction Permit if the request for the Excavation Permit includes a description of the proposed Obstruction.

1.4 Permit Request.

Requests for an Obstruction or Excavation Permit must be made on the application form adopted by the Board. If the Board has not adopted an application form, Permit Requests must be in writing and contain at least the following information:

- Name, address, phone number, and fax number of the Applicant;
 - Name, address, phone number, and e-mail address of a local representative that will serve as the designated contact person on behalf of the Applicant;
 - Name, address, phone number, and fax number of any subcontractors that will be performing any part of the Excavation or Obstruction;
 - A written description of the work to be performed in the Right-of-Way at each location including whether the work will involve Excavation and/or the Obstruction of a Right-of-Way;
 - A scaled drawing showing the specific location of the work to be performed and the location and approximate depth of any Facilities installed within a Right-of-Way;
 - Whether the Applicant intends to restore the Right-of-Way or elect to pay a degradation fee in lieu of restoration;
 - The state and completion dates for the work at each location; and
 - Certificate of insurance.
- A. **Incomplete Requests.** If a Permit Request received by the Board is incomplete, the Board will notify the Applicant within 15 days of the information that is needed in order to complete the request. Incomplete Permit Requests are invalid and shall be deemed rejected unless all the required information is submitted to the Board within 30 days of the date the Board notified the Applicant its Permit Request was incomplete.

- B. **Permit Request Fee.** All Permit Requests must be accompanied by a Permit Request fee. The purpose of this fee is to compensate the Board for its costs associated with reviewing the Permit Request. A Permit Request is not complete and will not be considered unless it is accompanied by the required fee. Permit fee shall be waived for agriculture production and contractors doing work for the Township. All other fees shall pertain (see section 6a) to agriculture production and contractors doing work for the Township.

1.5 Indemnification.

By making a Permit Request an Applicant agrees to, and all Excavation and Obstruction Permits are issued on the condition that a Permit tee, defend and indemnify the Town in accordance with the provisions of Minnesota Rule 7819.1250.

1.6 Written Permit.

If the Board notifies an Applicant of the need to obtain a written permit, the Applicant may not undertake the proposed Excavation or Obstruction until the Board issues the Applicant a written permit. The Board will require a written permit if, in its sole discretion, it determines the potential impact on the public or Right-of-Way requires additional review or safeguards. When considering Permit Requests requiring a written permit, the Board may condition the issuance of a written permit on the Applicant: providing the Board with additional information; providing a completion certificate as authorized in Minnesota Rule 7819.1300; providing the Town a construction performance bond with a term of at least 24 months as authorized by Minnesota Rule 7819.3000 before the Excavation occurs; require the restoration of the Right-of-Way be performed in accordance with Board established specifications and drawings; and complying with such other reasonable requirements as the Board determines are necessary to protect the public health, safety, and welfare of the Right-of-Way and its current uses.

- A. **Written Permit Fee.** When a written permit is required, the Applicant is required, in addition to paying the Permit Request fee, to reimburse the Board for the actual costs it incurs related to issuing the permit including, but not limited to, costs of reviewing the request, conducting inspections, hiring professionals, and other costs actually incurred that exceed the Permit Request fee and directly relate to the Applicant's request. The Board shall provide the Applicant a written statement of costs incurred. Payment in full of the written permit fee is due upon receipt of the statement and must be received by the Board no later than 30 days from issuance of the statement. In the alternative, the Board and the Applicant may agree to an advanced payment of the written permit fee. Failure to pay the written permit fee within the required period shall result in the immediate suspension of the permit and may result in the revocation of the permit as provided herein.

1.7 Limitations.

Permitted Excavations or Obstructions are limited to the area and time periods described in the Permit Request or written permit. A Permit tee must seek a new permit if it wished to Excavate or Obstruct outside of the originally permitted work area or time frame. This permit does not allow for crop production in the Township Right of Way, except for the harvesting of hay will be allowed by the property owner or its designee.

1.8 Delay Penalty.

A Permit tee that does not complete its Obstruction, Excavation, or restoration of the Right-of-Way at a particular location within 10 days of the completion date shall pay the Town a delay penalty for each day of delay. If a Permit tee is able to establish to the Board that one or more days of the delay was caused by circumstances beyond its control, the delay penalty shall not apply to those days of the delay.

1.9 Telecommunication Facilities.

Telecommunication facilities to be installed in a Right-of-Way shall be installed according to the requirements set out in Minnesota Rule 7819.5000 in addition to all other applicable federal, state and local requirements.

1.10 Gas and Electric Facilities.

Gas and electric facilities to be installed in a Right-of-Way shall be installed according to the requirements set out in Minnesota Rule 7819.5000 in addition to all other applicable federal, state, and local requirements.

1.11 Restoration Required.

A Permit tee must restore the Right-of-Way to at least the same condition that existed before the Excavation. If there is a dispute as to the level of restoration required, the Permit tee shall restore the Right-of-Way according to the applicable standards established in plates 1 to 13 set out in Minnesota Rule 7819.9900 to 7819.9950. If a Permit tee elects in its Permit Request to pay a degradation fee in lieu of restoring the Right-of-Way, the fee will be in an amount the Board determines necessary for the Town to have the Right-of-Way restored according to the applicable standards established in plates 1 to 13. A Permit tee electing to pay a degradation fee remains responsible for replacing and compacting the sub grade and aggregate base material in the Excavation.

- A. **Correct Defects.** Upon notice by the Board, a Permit tee shall correct any defects in the work it performs to restore a Right-of-Way. The work to correct the defects shall be completed within 7 days of the notice. If the Permit tee is not able to complete the

corrective work within 7 days because of circumstances beyond its control, the Permit-tee shall complete the work as soon as is possible.

- B. **Failure to Restore.** If a Permit tee fails to restore the Right-of-Way within 5 calendar days after the completion of an Excavation, or fails to correct defects in an earlier restoration as provided herein, the Board has the option of restoring the Right-of-Way according to the standards established in plates 1 to 13 set out in Minnesota Rule 7819.9900 to 7819.9950. The Town shall provide a statement of its actual costs for restoring, or correcting defects to, the Right-of-Way to the Permit tee. Payment in full of the statement is due upon receipt and must be received by the Board no later than 30 days from the date of the statement. If the Permit tee fails to pay the billed amount, the Town may exercise its rights under the construction performance bond.

1.12 Permit Denial.

The Board may deny a Permit Request if the Applicant has failed to pay any fees, penalties, or other amounts due as the result of previous Excavations or Obstructions unless the failure to pay is based on a good faith dispute over the amount owed. If the amount owed the Town is in dispute, an Applicant can become eligible to submit an additional Permit Request by placing the full amount the Town claims is still owed in escrow until the dispute is resolved. The Board may also deny a Permit Request for failure to meet the requirements of this section or if it determines the denial is necessary to protect the public health, safety and welfare.

1.13 Warnings Signs.

A Permit tee shall supply, place, and maintain warning signs as needed to warn the public of its Excavation or Obstruction. A Permit tee shall comply with the standards established by the Minnesota Department of Transportation in determining the need for signage, the type of signs, and their location.

1.14 Site Inspection.

A Permit tee shall make its work-site available at all reasonable times to Town representatives to conduct inspections of the site during the work and at its completion.

1.15 Permit Revocation.

The Board may issue an order revoking a permit if a Permit tee fails to comply with the requirements of this section, its permit, or is conducting the work in such a way as to pose an unreasonable risk to the public. An order revoking a permit is effective five days from the date of issuance if the Permit tee does not come into full compliance and otherwise corrects the items stated in revocation order. The Board shall have the authority to order the immediate cessation of work if it determines any portion of the work poses a serious threat to life, health, safety, or well-being of the public. If the Board revokes a permit, it shall provide for the restoration of the

Right-of-Way and the Permit tee shall pay all costs the Town incurs associated with the restoration to the standards established in plates 1 to 13 set out in Minnesota Rule 7819.9900 to 7819.9950.

1.16 Emergencies.

An Excavation or Obstruction Permit is not required in order for a Person to respond to emergencies related to the Facilities. However, within two business days after the occurrence of the emergency the Person shall apply for the necessary permits, pay the fees associated with those permits, and comply with the requirements to obtain those permits and of this section.

1.17 Relocation of Facilities.

An approved applicant is required, at its own expense, to promptly and permanently remove and relocate its Facilities in the Right-of-Way when it is necessary to prevent interference in connection with: the Town's present or future use of the Right-of-Way for a public project; the public health, safety, and welfare; or the safety and convenience of travel over the Right-of-Way. An approved applicant shall also pay for the relocation of its Facilities upon the vacation of the Right-of-Way as provided for in Minnesota Rule 7819.3200, subd. 2.

1.18 Right-of-Way Vacation.

If the Board vacates all or a portion of a Right-of-Way containing Facilities and the vacation does not require the relocation of those Facilities, the Board shall, except when it would not be in the public interest, reserve to and for itself and all those having Facilities in the vacated Right-of-Way, the right to install, maintain, and operate facilities in the vacated Right-of-Way and to enter upon the Right-of-Way at any time to reconstruct, inspect, maintain, or repair the Facilities.

1.19 Abandoned Facilities.

A Person is required to remove any of its abandoned Facilities in conjunction with other Right-of-Way repair, Excavation, or construction unless expressly waived by the Board in a specific situation upon the request of the Person. "Abandoned Facility" has the meaning provided in Minnesota Rule 7819.0100, subd. 2.

1.20 Fees and Penalties.

All fees and penalties provided for in this section shall be established from time to time by Board resolution in compliance with Minnesota Rule 7819.1000 and made available to the public upon request. Unless indicated otherwise in a franchise, the fees and penalties provided for here are in addition to any franchise fees a Permit tee may be required to pay. All fees, penalties, and other charges imposed under this section are non-refundable.

1.21 Notices.

For the purposes of the Board providing notice under this section, the Board shall be deemed to have satisfied its notice obligation if it provides the required period of notice by mail, fax, or e-mail to the Applicant’s designated local representatives.

1.22 Notification.

In no way does this permit exempt the applicant from notifying other government agencies of its intent to do work in the Township Right of Way; these agencies may include but not be limited to County, State or Federal agencies.

Attest: Clerk

Chairman:

Pine City Township Ordinance

SECTION 21.

FEE STRUCTURE

ZONING ORDINANCE

Pine City Township

FEES STRUCTURE

(Subject to Change)

Right-of-Way Permit	\$50.00
Application for Driveway / Culvert Permit	\$40.00
Application for Site Permit	\$100.00
Application for Conditional Use Permit	\$550.00
Request for Variance	\$550.00
Application for Interim Use Permit	\$550.00
Application for Zoning Ordinance Amendment	\$550.00
Appeal to Board of Appeals and Adjustment	\$100.00 *
*Refunded if Appeal Upheld	
Sewer Permit	\$400.00

• **ALL FEES ARE NON-REFUNDABLE**

1. Environmental Assessment Worksheet (EAW) and Environmental Impact Statement (EIS).

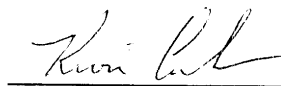
Subd. A

The developer or project sponsor shall pay all costs of preparation and review. (Costs shall include hourly rate of pay for staff, including benefits, postage and copies.)

Fee Schedule Adopted by the Town Board this 7th day of July, 2015.



 Attest



 Chairman

