

GLENWOOD TOWNSHIP ZONING ORDINANCE

**GLENWOOD TOWNSHIP
POPE COUNTY, MINNESOTA**

Ordinance No. 202101

**Originally Adopted on March 9, 1993
Repealed and Replaced on January 28, 2021**

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**GLENWOOD TOWNSHIP
ZONING ORDINANCE**

The board of supervisors of the Town of Glenwood ordains:

**ARTICLE I
GENERAL PROVISIONS**

- 1.1 **Authority and Purpose.** The Town Board of Glenwood Township (the “Town”) hereby adopts this ordinance, which shall be known as the “Glenwood Township Zoning Ordinance” (this “Ordinance”), pursuant to its authority under Minnesota Statutes, sections 462.351 to 462.364, and such other law as may apply. This Ordinance does not rely on the authority provided in Minnesota Statutes, sections 366.10 to 366.181 and the procedures and requirements of those sections do not apply to this Ordinance. The Town has not adopted and does not administer or enforce the Minnesota Building Code.

The purpose of this Ordinance is (1) to protect the public health, safety, and general welfare, (2) to protect property values and preserve the quiet enjoyment of property, (3) to place all of the land within the Town within a zoning district, (4) to allow and regulate certain uses of land and structures within the Town while prohibiting other uses and structures, (5) conserving natural resources, wetlands, soils, bodies of water and groundwater, (6) preserving the natural and scenic areas of the Town, particularly the Town’s lakes, (7) to allow and regulate residential, commercial and industrial development in the Town in an environmentally sustainable manner and in manner that protects the culture and history of the Town, (8) to make clear the provisions of this Ordinance are intended to be the minimum requirements applicable within the Town and that structures and land uses remain subject to such other laws, rules, regulations and ordinances as they may apply, and (9) to prescribe penalties for violating this Ordinance.

- 1.2 **Legislative Findings.** The Town Board hereby finds and determines as follows:
- (A) Towns are defined as “municipalities” for the purposes of Minnesota Statutes, sections 462.351 to 462.364, and may adopt plans and official controls pursuant to those sections.
 - (B) On March 9, 1993, the Town exercised its authority to adopt the Glenwood Township Zoning Ordinance.
 - (C) The Town is authorized to adopt a full set of official controls regulating structures and the uses of land within the Town, but it may also enact a limited set of zoning regulations focused on those land uses it determines are in need of regulation in a manner stricter than the regulations imposed by Pope County (“County”).
 - (D) In 2013, the Minnesota Legislature enacted a bill that contained several provisions designed to promote the growth of solar energy. One such provision, which is

codified as Minnesota Statutes, section 216B.1641, created community solar gardens;

- (E) In February, 2020, the Town processed an application to construct a community solar garden within the Town, and the experience made it clear that the Town needed to further study whether community solar gardens, and solar energy facilities generally, should be allowed within the Town, and if allowed, whether performance standards and other controls are necessary.
- (F) At that time, the Town's zoning ordinance and the County's Land Use Controls Ordinance ("County Ordinance") did not specifically address community solar gardens, or solar energy facilities in general, and therefore, there is no specific guidance addressing considerations such as setbacks, types of uses, visibility/screening, lot coverage, plan approval, stormwater management, coordination with utilities, and decommissioning.
- (G) On July 7, 2020, the County Ordinance was amended to include controls regarding solar energy systems, providing that solar energy systems, other than utility-scale systems that are permitted by the State of Minnesota, are permitted, conditional or accessory uses within the County's zoning districts, depending on the district and the type of system constructed or installed on the property. The County Ordinance includes setback, height, impervious surface, vegetation, stormwater and erosion control, slope, floodplain, signage, aviation, glare, decommissioning and other regulations and standards with regard to solar energy systems.
- (H) The Town has also experienced an increase in the size and number of mining operations within the Town, and the expansion of mining operations raised concerns over the appropriateness of such uses and expansion, and the potential conflict between those uses and other agricultural, residential, commercial and industrial uses within the Town.
- (I) The Town's zoning ordinance addresses "borrow pits," but it does not set forth performance standards or any additional controls with regard to "borrow pits" or mining in general.
- (J) The County Ordinance sets forth performance standards for "aggregate mining and processing," which were also amended on July 7, 2020, but the Town's concerns raised questions over whether it should adopt performance standards or other zoning controls to prohibit or more strictly regulate mining operations within the Town, how best to identify mining operations that should be prohibited or more strictly regulated, whether the County's Ordinance adequately regulates mining operations within the Town, and whether the minimum requirements for mining operations are sufficient to protect the health, safety, and welfare of the residents of the Town.

- (K) On February 11, 2020, the Town Board adopted an interim ordinance (“Interim Ordinance”) imposing a moratorium upon the establishment or creation of new solar energy facilities and mining operations or the expansion of existing solar energy facilities or mining operations and directing the Town Board to conduct a study of solar energy facility, mining operations, the impacts they may have, the benefits of such facilities and operations, and options for regulating them. The Town Board also intended to review planning and zoning in general, including regulations set forth in the County Ordinance and to make recommendations to help determine whether the Town should impose more restrictive regulations.
- (L) Over several months, the Town Board undertook an extensive review of the matters it was tasked to study, including the review of a wide range of materials, heard from the public, and spoke to others interest in local zoning.
- (M) The Town Board determined that it would proceed with amending and updating the Glenwood Township Land Use Plan and the zoning ordinance. In an effort to gather information directly from Town residents, the Town also conducted a community survey addressing various planning and zoning topics, including Town demographics, Town infrastructure and services, and the Town’s short and long-term vision and land use and planning goals.
- (N) On January 12, 2021, the Town Board adopted the Glenwood Township Comprehensive Land Use Plan (“Comprehensive Plan”), which included concerns raised in the Interim Ordinance with regard to the development of solar energy facilities and gravel pits and the following survey results: (1) Town residents desire to protect, preserve and enhance the rural nature of the Township and to balance residential, commercial and industrial development in a manner that does not significantly impact the Township’s rural and agricultural history, (2) Town residents desire to protect and preserve the water quality of Lake Minnewaska and other bodies of water in the Town, (3) Town residents are not opposed to the development of solar energy facilities and gravel pits, but they desire regulations ensuring they do not significantly affect the environment or rural nature of the Town, particularly with regard to gravel pits, (4) Town residents have concerns with regard to additional annexation of Township property by the City of Glenwood, and its effect upon the Town’s finances and rural nature, and (5) Town residents expressed concerns with regard to additional uses of property in the Town, including increased commercial development, access to broadband internet, and short-term/vacation rentals in the area of Lake Minnewaska.
- (O) The Town is aware of the limitation on its zoning authority set out in Minnesota Statutes, section 394.33, and it finds the regulations imposed by this Ordinance are consistent with, and at least as restrictive as, the limitations imposed by the County.
- (P) The Town Board has exercised its authority to reestablish the Glenwood Township Planning Commission (“Planning Commission”). The Planning

Commission held a public hearing on this Ordinance, heard from the public, and voted to forward this Ordinance to the Town Board with a recommendation that it be adopted.

- 1.3 **Jurisdiction.** This Ordinance shall apply to all areas within Glenwood Township, except areas within the incorporated limits of any city, however organized, or as may otherwise be provided by law.
- 1.4 **County Regulations.** Pope County (the “County”) has adopted various ordinances impacting the development and use of property in the Town, including floodplain regulations, riparian buffer regulations, subdivision regulations, solid waste regulations, and regulations related to subsurface sewage treatment systems (“SSTS”). This Ordinance does not adopt, nor shall it be construed as adopting, any portion of those regulations and the Town is not assuming any responsibility for the administration or enforcement of those regulations. The County Ordinance includes shoreland regulations, establishes zoning districts and imposes regulations on the uses allowed within each district. The Town shall only be responsible for administering and enforcing the provisions of this Ordinance, including those provisions incorporated by reference, and anyone proposing to engage in or establish a regulated use or activity shall be required to obtain the required permit from the Town. The issuance of a permit by the Town does not constitute, or take the place of, a permit needed from the County, and the issuance of a permit by the County does not constitute, or take the place of, a permit needed from the Town. Anyone proposing to initiate, convert, or expand a use of land, or to construct or expand a building or structure, is strongly encouraged to contact both the County and the Town to identify the applicable regulations, restrictions, and permit requirements.
 - 1.4.1 **Shorelands and Floodplains.** Those portions of the Town designated as shoreland or floodplain areas according to the applicable FEMA maps shall be regulated by the County pursuant to its applicable ordinances and any permits required under the County’s ordinance shall be obtained from the County. The designated shoreland and floodplain areas within the Town shall be treated as an overlay district for the purposes of this Ordinance and the land within the overlay shall be subject to the underlying regulations applicable in the primary zoning district imposed by this Ordinance including, where applicable, the need to obtain one or more permits under this Ordinance.
 - 1.4.2 **SSTS.** The County administers and enforces the Minnesota Rules, Chapters 7080-7083 regulations on SSTS in the Town.
 - 1.4.3 **Subdivisions.** Those proposing to subdivide property within the Town shall be subject to the County’s subdivision regulations. However, pursuant to Minnesota Statutes, section 505.09, subdivision 1a, the County may not approve the platting of any land within the Town unless the Town Board first approves the plat and the laying of streets and other public ways shown on it. The Town Board may require, as a condition of any such approval, that the owner or developer enter into a development agreement with the Town Board regarding the proposed plat

to address such issues as the Town Board may determine are needed in order to adequately protect the public health, safety, and welfare including, but not limited to, reimbursement of actual costs, providing security in the form and amount acceptable to the Town, and ensuring the proper construction of public improvements.

- 1.5 **Minimum Standards.** In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and welfare. Where the standards, regulations or requirements imposed by any provision of this Ordinance are either more or less restrictive than comparable standards, regulations or requirements imposed by any other ordinance, rule, or regulation of the Town, County, State, or Federal government, the statute, ordinance, rule, or regulation which imposes the more restrictive condition, standard, regulation, or requirement shall prevail. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the Town, and shall not be deemed a limitation or repeal of any other powers granted by State statute.
- 1.6 **Consistency.** Should any provision in this Ordinance conflict with, or be found inconsistent with Minnesota Statutes, Chapter 462, the provisions of the applicable section of Minnesota Statutes, Chapter 462 shall apply, and supersede the inconsistent or conflicting terms of this Ordinance. It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.
- 1.7 **Adoption by Reference.** This Ordinance adopts by reference various provisions of the County Ordinance in order to promote consistency between this Ordinance and the County Ordinance and to avoid having to restate the provisions in full in this Ordinance. The provisions adopted by reference shall be interpreted to give effect to the intent of this Ordinance and in accordance with the following rules:
- (A) The provisions adopted by reference shall include such other provisions of the County Ordinance either directly referenced in the adopted provisions or that are necessary to give effect to the provisions adopted by reference, even if those provisions are not specifically identified in this Ordinance;
 - (B) References to the Board of County Commissioners or to the County Board shall be to the Town Board unless the context clearly indicates otherwise;
 - (C) References to the Planning Commission shall be to the Glenwood Township Planning Commission;
 - (D) References to the County Engineer shall be to the Town Board;

- (E) References to a County highway right-of-way shall be to a Town road right-of-way unless the context clearly indicates otherwise; and
 - (F) All applications required by the provisions adopted by reference shall be submitted to the Town Zoning Administrator or, if one has not been appointed, to the Town Clerk.
- 1.8 **Land Use Plan.** It is the policy of the Town that the enforcement, amendment and administration of this Ordinance be accomplished with due consideration of those recommendations contained in the Town's Comprehensive Plan.
- 1.9 **Applications.** All applications must be on forms approved by the Town Board. Any requests not submitted on an approved Town form shall not be considered an application for the purposes of this Ordinance or Minnesota Statutes, section 15.99 and shall be rejected. An application shall be immediately rejected if it is not accompanied by the required application fee. If an escrow is required, the applicant shall submit the required amount for escrow with the Town within five days of the submission of the application or the application shall be deemed incomplete and will not be processed.
- 1.10 **Unpaid Taxes or Charges.** Any application for a zoning request related to property in which there are delinquent property taxes, special assessments, penalties, interest, or past due public utility fees shall not be considered complete and shall not be processed until the owner certifies to the Town, with adequate supporting documentation, that all such delinquent or past due amounts, interest, and penalties have been paid in full. Furthermore, any person that submits an application for a zoning request that owes the Town for past zoning related fees or costs, or if the application relates to property on which there are zoning related fees or costs owed to the Town, the application shall be deemed incomplete and shall not be accepted or processed until all such delinquent or past due amounts have been paid in full to the Town. The Town will not process or issue a permit, variance, or any other zoning request to any of the above described properties until all past due amounts, penalties, and interest have been paid in full. The Town may collect any zoning related fees, charges, or costs owed to it by certifying the amount to the County Auditor as a service charge pursuant to Minnesota Statutes, section 366.012 for collection together with the property taxes levied against any real property the person or entity owing the amount owns in the State. The Town will provide the property owner written notice of its intent to certify the amount on or before September 15. The amounts so certified to the County shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes.
- 1.11 **Severability.** If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. 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 judgment shall not affect the application of said provisions to any other property, building, or structure not specifically included in said judgment.

- 1.12 **Compliance.** No structure shall be erected, placed, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose or in any manner, which is not in conformity with this Ordinance. Construction of all structures and the established and operation of all uses must be in accordance with the application, plans, permit, and any applicable variances. Conditional use permits issued on the basis of approved plans and applications authorize only the use and construction set forth in such approved plans and applications and no other use or construction. Any use or construction not in conformance with that authorized shall be deemed a violation of this Ordinance unless a new or amended permit or variance is first obtained as provided in this Ordinance.
- 1.13 **Prior Zoning Regulations.** This Ordinance supersedes and replaces all previous land use, zoning, and subdivision ordinances adopted for the Town and all such previous land use and zoning ordinances are hereby repealed. The repeal of the Town's previous zoning ordinance does not itself affect the status of any use, structure, or lot that was not in conformance with the earlier ordinances.

ARTICLE II DEFINITIONS AND RULES OF INTERPRETATION

- 2.1 **Definitions.** For the purposes of this Ordinance, the following terms shall have the meaning given them in this section. Any term not specifically defined in this Ordinance shall have the meaning given it in the County Ordinance, if not defined therein, it shall have the meaning given it in the most applicable Minnesota Statute or Rule, and if not defined therein, it shall the meaning given it in common usage in the context in which it is used herein.
- (A) **County.** "County" means Pope County, Minnesota.
 - (B) **County Ordinance.** "County Ordinance" means the most current version of the Pope County Land Use Controls Ordinance.
 - (C) **Land Use Plan.** "Land Use Plan" means the Glenwood Township Comprehensive Plan, as amended.
 - (D) **Person.** "Person" means a natural person, partnership, corporation, association, or other legal entity.
 - (E) **Town.** "Town" means Glenwood Township, Pope County, a public corporation under the laws of Minnesota.
 - (F) **Town Board.** "Town Board" means the board of supervisors of Glenwood Township, Pope County, Minnesota.
 - (G) **Zoning Administrator.** "Zoning Administrator" means the person appointed by the Town Board to serve as the zoning administrator for the Town or the Town Board if it does not specifically identify one person to serve as the zoning administrator for the Town.

2.2 **Rules of Interpretation.** The language set forth in the text of this Ordinance shall be interpreted in accordance with the rules of construction:

- (A) The word “person” includes firm, association, organization, company, partnership, cooperative, or corporation as well as an individual;
- (B) The present tense includes the future tense, the singular number includes the plural, and the plural includes the singular;
- (C) The word “shall” is mandatory and the word “may” is permissive;
- (D) The word “lot” shall include the words “plot,” “piece,” “parcel,” and “property” and shall be interpreted broadly to give full effect of the provisions of this Ordinance;
- (E) All distances, unless otherwise specified, shall be measured horizontally, and all distances expressed in feet shall be to the nearest 1/10 of a foot;
- (F) General words are construed to be restricted in their meaning by preceding particular words;
- (G) Specific language shall be controlling over general language;
- (H) References in this Ordinance to any statutes, rules, regulations, or ordinances shall include any amendments to, or successors of, those statutes, rules, regulations, or ordinances. Furthermore, such references shall serve to incorporate those statutes, rules, regulations, or ordinances by reference to the extent necessary to achieve the intent and purposes of this Ordinance. However, such incorporations are intended only to give effect to this Ordinance and are not intended to make the Town responsible for the administration or enforcement of the referenced statutes, rules, regulations, or ordinances; and
- (I) The listing of examples to further explain a term, concept, requirement, or process is not intended to be, and shall not be interpreted as, an exclusive listing. Unless the context clearly indicates otherwise, such listings are intended to be explanative without being exclusive or limited. The exception to this general rule of interpretation is the listing of uses allowed in a district, which is intended to be limited to only those uses and the uses the Town Board finds to be substantially similar as provided in this Ordinance.

ARTICLE III ZONING DISTRICTS AND ZONING MAP

3.1 **Zoning Districts.** All of the land within the Town located outside the jurisdictional boundaries of a city shall be placed within a zoning district and may also be located

wholly or partially within one (1) or more overlay districts. The following zoning districts are hereby established for the Town:

- (A) Residential District (R);
- (B) Non-Intensive Agriculture District (A-1);
- (C) Agriculture Protection District (A-2);
- (D) Industrial District (I); and
- (E) Special Commercial Overlay District (SC).

3.2 **Zoning Map.** The zoning map adopted by the County showing the location and boundaries of the zoning districts is hereby adopted by reference and incorporated herein as the Glenwood Township Zoning Map.

3.3 **District Regulations.**

3.3.1 **Generally.** Land within a particular zoning district shall be subject to: the general standards, regulations, and restrictions contained within this Ordinance; any specific standards, regulations, and restrictions established in this Ordinance for the particular district; any performance standards established for the particular use; the standards, regulations, and restrictions of any applicable overlay district; and any applicable standards, regulations, and restrictions imposed by any other applicable federal, state, and local laws, rules, regulations, and ordinances.

3.3.2 **Overlay District Regulations.** Land located within an overlay district is subject to both the regulations established herein for the primary zoning district in which it is located as well as the regulations applicable within the overlay district.

3.3.3. **Identified Uses.** Except as otherwise provided in this section, only those uses that are expressly identified by this Ordinance as being allowed within a district may occur within that district, and then only upon the issuance of all required permits and compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances. If an owner proposes to undertake a use that is not expressly allowed in the particular district, the owner may seek a determination from the Town Board under the following subsection that the proposed use is substantially similar to an allowed use, apply for an amendment to the text of the Ordinance to add the use to those allowed within the zoning district, or seek a rezoning of the property to a district in which the use is allowed.

3.3.4 **Substantially Similar Uses.** Only those uses expressly allowed by this Ordinance for a particular zoning district may occur in that district. If an owner proposes to undertake a use the owner believes is substantially similar to a use expressly allowed by this Ordinance in the same zoning district, that person may submit an application to the Town to seek a determination that the use is allowed in the particular district as being substantially similar to the expressly allowed use. Such application shall be on the form supplied by the Town and it must fully explain the proposed use and how it is similar to the allowed use. The Town

Board shall act on complete applications to determine whether the proposed use is substantially similar to an allowed use in the same district. If the Town Board does find the proposed use is substantially similar, it shall also determine whether the use shall be deemed a permitted or conditional use for the purpose of this Ordinance. The owner must then apply for any required permits based on the Town Board's classification of the use and any other applicable regulations. The Town Board shall maintain a record of all uses it expressly finds to be substantially similar and will make a good faith effort to include those uses in the Ordinance the next time it is amended. If the Town Board finds the proposed use is not substantially similar to an allowed use, the owner may submit a separate application to seek an amendment to the text of this Ordinance to expressly allow the use within a district.

- 3.3.5 **Uses Allowed by Statute.** The legislature has adopted various provisions by statute requiring local governments to treat certain uses as permitted or conditional uses within their respective jurisdictions for the purposes of zoning regulations. Notwithstanding the general prohibition contained herein of uses not expressly allowed by this Ordinance, this Ordinance shall be interpreted as allowing those uses the legislature expressly requires the Town to allow. Such uses shall be classified as provided in the legislative mandate and shall only be allowed in those areas described in the applicable statute, and then only to the extent and scope as prescribed in the statute. For example, Minnesota Statute, section 462.357, subdivision 7 requires a licensed day care facility serving twelve (12) or fewer persons to be considered a permitted single-family residential use of property. As such, this Ordinance shall be interpreted as allowing that specific use as a permitted residential use, but only up to a capacity of twelve (12) persons. A proposed use that exceeds the scope described in the statute shall not be allowed unless the expanded use is expressly allowed in the particular zoning district by this Ordinance. Furthermore, if the statute indicates the use is to be allowed as a conditional use, the use may only occur upon the submission of an application and receipt of a conditional use permit from the Town. All mandated uses shall obtain all permits and permissions as required by this Ordinance and all other applicable laws.
- 3.3.6 **Prohibited Uses.** Only those uses identified as being allowed within a zoning district under this Ordinance, and those found by the Town Board to be substantially similar uses as provided herein, may occur within that district, subject to the additional restrictions and prohibitions contained in this Ordinance. References to other uses in this Ordinance, such as in the performance standards, are not intended, and shall not be interpreted, as expanding the uses allowed within a particular district, with the exception of uses allowed by the Town Board as being substantially similar to uses otherwise allowed within the district.
- 3.3.7 **Essential Services.** Notwithstanding anything to the contrary in this Ordinance, essential services shall be permitted as authorized and regulated by State law, the County Ordinance and other ordinances of the Town, it being the intention that

such services are exempt from the application of this Ordinance, except to the extent expressly provided otherwise herein.

- 3.4 **Recording this Ordinance.** The Town Clerk shall record this Ordinance, and any subsequent amendments made hereto, in the office of the Pope County Recorder after adoption.

ARTICLE IV RESIDENTIAL DISTRICT (R)

- 4.1 **Residential District.** The purpose of the Residential District (R) is to establish and preserve residential development where substantial residential development has already taken place and where additional residential development is anticipated and encouraged, while prohibiting uses that are not consistent with the purpose of the district. In the Residential District (R), no land or buildings shall be used in whole or part except for one or more of the following allowed uses.
- 4.2 **Permitted Uses.** The following uses are allowed within the Residential District (R) as a matter of right:
- (A) Single-Family Dwelling (one per lot).
 - (B) Two-Family Dwelling (one per lot).
 - (C) Agricultural Uses, subject to the standards set forth in Section 10.3 of the County Ordinance, or subsequent amendments thereto.
 - (D) Parks and Playgrounds.
 - (E) Home Occupations, subject to the requirements of Section 10.9 of the County Ordinance, or subsequent amendments thereto.
 - (F) Antennae when mounted on a rooftop or along a building or other structure.
 - (G) One vacation rental unit per parcel which meets the standards set forth in Section 10.30.3.2.a. of the County Ordinance, or subsequent amendments thereto. requirements.
 - (H) Accessory Solar Energy Systems: Residential/Personal, subject to the standards set forth in Section 9.3 of this Ordinance.
- 4.3 **Conditional Uses.** The following uses may be allowed in the Residential District (R) as conditional uses, subject to the provisions regarding the issuance of a conditional use permit:
- (A) Churches, chapels, temples and synagogues.
 - (B) Offices of members of recognized professions.
 - (C) Planned Unit Developments.
 - (D) Those commercial uses which serve local permanent residents and the resort industry, such as grocery stores, marine supplies, equipment and service; recreational equipment sales and privately owned and licensed recreational activity.

- (E) Multiple family dwellings allowed at a density of one unit per 7,500 square feet. Lots intended for multiple family dwellings must identify two (2) sewage treatment sites.
- (F) Bed and Breakfast facilities
- (G) Manufactured Home Parks, subject to the standards set forth in Section 10.13 of the County Ordinance, or subsequent amendments thereto.
- (H) Other uses of the same general character as those listed above, provided they are uses that are not more concentrated or intensive than the uses listed above, produce no greater impact on the neighborhood than those listed above, and are not incompatible with existing adjacent uses.
- (I) Towers, subject to the standards set forth in Section 10.5 of the County Ordinance, or subsequent amendments thereto.
- (J) Golf courses and other similar commercial recreational facilities characterized by significant open or green space.
- (K) Vacation rental properties, subject to the standards set forth in Section 10.30 of the County Ordinance, or subsequent amendments thereto.

4.4 **Minimum Lot Area for Lots/Structures.**

Single	40,000 square feet
Duplex	80,000 square feet
Triplex	120,000 square feet
Quad	160,000 square feet

4.5 **Setbacks.**

- (A) Side Yard Setback: 10 feet
- (B) Unplatted cemetery: 50 feet
- (C) From Centerline of Public Roadways classified as:
 - Arterials 225 feet
 - Major Collectors 150 feet
 - Minor Collectors 125 feet
- (D) From Centerline of Town Roads and all other legal roads or streets not classified as an arterial or collector: 100 feet
- (E) Reciprocal Feedlot Setbacks: These setbacks apply to new structures or uses and do not apply to modifications of additions to established uses. Residential structures which serve farm property upon which feedlots are located are exempt from these requirements. Setbacks which apply across district boundaries shall be governed by the requirements of the district which provide for the largest setback. In all instances involving the setback of a residential use from a feedlot or a feedlot from a residential use, the setbacks shall be consistently applied in a manner which produces a reciprocal setback between the two uses. This section shall not limit the authority of the Town to require separation between a planned agricultural development and residential use greater than the provisions governing setbacks in the general districts as set forth below.

Structure or Use	Setback From	Setback
Single Residence	Feedlot Perimeter	500 feet
Duplex	Feedlot Perimeter	500 feet
Triplex	Feedlot Perimeter	500 feet
Quad	Feedlot Perimeter	500 feet

4.6 Residential District Regulations.

4.6.1 Steel Buildings, Pole Buildings and Other Dwellings.

- (A) Lots smaller than five acres: The following uses, by nature, are not necessarily typical on smaller lot developments and thus pose a potential for conflict with more traditional lot uses and development which may exist or which may develop in the immediate neighborhood. Typical arguments against such uses are devaluation of adjacent property values, cluttered or unsightly development and incompatibility of uses. The purpose of this section is to allow for public review of the following uses that may be proposed on parcels of less than five acres in size to minimize the potential conflicts of incompatible development, and to determine if they can or cannot be allowed.
- (1) Placement of steel buildings, pole buildings, or metal-clad structures of larger than 1100 square feet, side wall height exceeding twelve (12) feet or galvanized surfaces shall be by conditional use.
 - (2) Placement of residential structures less than 20 feet wide over more than 25% of the residential structure area shall be by conditional use.
 - (3) Placement of any used building or structure of greater than 200 square feet in area which is to be moved on a lot of less than five acres size shall be by conditional use.
 - (4) Any structure constructed in such a manner so as to provide more than one area of kitchen facilities or having more than four bedrooms, or having more than two stories above grade shall be considered a potential multiple dwelling and shall be by Conditional Use Permit.
 - (5) In allowing the types of structures regulated by this section, the Planning Commission findings shall determine that the proposed structure will not look out of place in comparison with other structures of the same neighborhood (within 500 feet), will not tend to cause devaluation of adjacent properties, will not create a use that is incompatible with existing uses of the neighborhood. A temporary permit for a period of up to a five-year duration may be allowed even if the findings do not meet the described above.

4.7 **Height of Structures.** All structures, in residential districts except churches and non-residential agricultural structures must not exceed 35 feet in height.

4.8 **Lots of Record.**

(A) Lots located in an area zoned residential which were of record in the County Recorder's office prior to December 31, 1999 and which do not meet the requirements of this section may be allowed as building sites provided:

- (1) Such use is permitted in the zoning district;
- (2) The lot was in separate ownership from abutting lots or lands prior to the date on which the area was zoned residential; and
- (3) All sanitary, dimensional and setback requirements of this ordinance are complied with.

(B) For parcels of less than 10,000 square feet with development existing as of the date on which the area was zoned residential and which were lots of record prior to the date on which the area was zoned residential, the following shall apply:

- (1) The minimum structure from State or County Highway right-of-way is 25 feet.
- (2) The minimum setback from other roads and streets is 20 feet.
- (3) The minimum structure setback from side lot property is 5 feet.
- (4) The minimum sewage system setback from property line is 5 feet.

ARTICLE V NON-INTENSIVE AGRICULTURE DISTRICT (A-1)

5.1 **Non-Intensive Agriculture District.** The purpose of the Non-Intensive Agriculture District (A-1) is to provide a buffer to separate more intensive agricultural production practices from incompatible recreational, residential, commercial or industrial uses. In the Non-Intensive Agriculture District (A-1), no land or buildings shall be used in whole or part except for one or more of the following allowed uses.

5.2 **Permitted Uses.** The following uses are allowed within the Non-Intensive Agriculture District (A-1) as a matter of right:

- (A) Agricultural buildings.
- (B) Single-Family Dwelling (frame or manufactured homes) and their accessory buildings located on one agricultural farm. A conditional use permit shall be required when the number of single-family dwellings per farm exceeds two (2).
- (C) Agricultural, horticultural, aquacultural and silvicultural activities including the pasturing of domestic livestock and exotic animals and birds, and existing animal feedlots. A conditional use permit shall be required for all new and expanding feedlots.

- (D) Farm drainage systems, flood control and watershed/erosion control devices meeting all County, state and federal minimum regulations.
- (E) Temporary or seasonal roadside stands with adequate off-street parking, not to exceed one stand per farm.
- (F) Forest and game management areas.
- (G) Existing golf courses and other similar commercial recreational facilities characterized by significant open or green space.
- (H) Antennae when mounted on a rooftop or along a building or other structure.
- (I) Home occupations, subject to the requirements of Section 10.9 of the County Ordinance, or subsequent amendments thereto.
- (J) Accessory Solar Energy Systems: Agricultural/Farm Use, subject to the standards set forth in Section 9.3 of this Ordinance.

5.3 **Conditional Uses.** The following uses may be allowed in the Non-Intensive Agriculture District (A-1) as conditional uses, subject to the provisions regarding the issuance of a conditional use permit:

- (A) Home occupations
- (B) Educational institutions and incidental uses when situated on the same site or unit of property.
- (C) Cemeteries.
- (D) Restaurants, convenience stores, gas stations, on/off sale liquor sales.
- (E) Solid waste processing facilities and sanitary landfills provided they meet all applicable County and state laws.
- (F) Mining of gravel.
- (G) Non-farm single-family residential dwelling units to be placed or constructed on land which is woodland, is fallow, or is otherwise untilled or unsuitable for raising crops and which is located as near as practical to existing non-farm residential development, provided, however, that the construction of non-farm single-family residential structures is prohibited if the proposed structure will result in more than two residential structures (farm or non-farm) being located within any division, subdivision, or other "split" of any quarter quarter section (40 acres plus or minus fractional amounts to account for survey anomalies, loss to public roadway use, etc.). Prior to the issuance of a conditional use permit for a non-farm dwelling, the owner of the property shall be required to sign a statement of acknowledgement containing an "Acknowledgement of Agriculture Protection Zone Designation" disclosure. The acknowledgement shall be on a form provided by the Zoning Administrator and made available to the public. The disclosure forms shall be on file in the Town Hall.
- (H) Residential Planned Unit Developments provided that they are partially within or adjacent to a shoreland or residential district and are so laid out as to keep the depth of extension from the boundary of that district into the A-1 district to a minimum. A person who applies for a residential planned unit development shall, not later than ten business days after the application is submitted, provide notice to each owner of agricultural real property within 5,000 feet of the perimeter of the proposed development. The notice may be delivered by first class mail, in

person, or by publication in a newspaper of general circulation within the affected area and must include information on the number of residential units. This notice shall not be required if Minnesota Statutes, section 394.305 is repealed subsequent to the effective date hereof.

- (I) New or expanded golf courses and other similar commercial recreational facilities characterized by significant open or green space provided that they are partially within or adjacent to a shoreland or residential district and are so laid out as to keep the depth of extension from the boundary of that district into the A-1 district to a minimum.
- (J) Game farms, shooting ranges and commercial hunting establishments.
- (K) New and expanded feedlots having a permitted capacity of up to 200 animal units.
- (L) Seasonal structures used for “hunting shacks” and not used for extended occupancy.
- (M) Other uses of the same general character as those listed above, provided that their uses are not more concentrated or intensive than the uses listed above, produce no greater impact on the neighborhood than those listed above, and are not incompatible with existing adjacent uses.
- (N) Towers, subject to the standards set forth in Section 10.5 of the County Ordinance, or subsequent amendments thereto.
- (O) Motor vehicle salvage facility subject to the standards set forth in Section 10.14 of the County Ordinance, or subsequent amendments thereto.
- (P) Municipal wastewater treatment facilities.
- (Q) A temporary single-family dwelling unit that is to be located within 300 feet of the existing residence for the purpose of home healthcare of immediate family member or seasonal worker housing. An annual inspection is required to validate applicable status.
- (R) Solar Energy Systems: Solar Garden equal to or less than one (1) MW, subject to the standards set forth in Section 9.3 of this Ordinance.

5.4 Minimum Lot Area for Lots/Structures.

Farm Residence	3 acres
Preserved Farm Homestead	3 acres
New Residence	3 acres

5.5 Setbacks.

- (A) Side Yard Setback: 10 feet
- (B) Unplatted cemetery: 50 feet
- (C) From Centerline of Public Roadways classified as:
 - Arterials 225 feet
 - Major Collectors 150 feet
 - Minor Collectors 125 feet
- (D) From Centerline of Town Roads and all other legal roads or streets not classified as an arterial or collector: 100 feet

- (E) **Reciprocal Feedlot Setbacks:** These setbacks apply to new structures or uses and do not apply to modifications or additions to established uses. Residential structures which serve farm property upon which feedlots are located are exempt from these requirements. Setbacks which apply across district boundaries shall be governed by the requirements of the district which provide for the largest setback. In all instances involving the setback of a residential use from a feedlot or a feedlot from a residential use, the setbacks shall be consistently applied in a manner which produces a reciprocal setback between the two uses. This section shall not limit the authority of the county to require separation between a planned agricultural development and a residential use greater than the provisions governing setbacks in the general districts as set forth below.

Structure or Use	Setback From	Setback
Non-Farm Residence	Feedlot	500 foot minimum setback increasing at the rate of 2 feet for each animal unit in excess of 50
Farm Residence	Feedlot	500 foot minimum setback increasing at the rate of 2 feet for each animal unit in excess of 50
Feedlot	Residence	500 foot minimum setback increasing at the rate of 2 feet for each animal unit in excess of 50
Feedlot	Hospitality Business	1000 foot minimum setback increasing at the rate of four feet for each animal unit in excess of 50
Hospitality Business	Feedlot	1000 foot minimum setback increasing at the rate of four feet for each animal unit in excess of 50

In the case of an unpermitted feedlot, the setback shall be estimated based upon the size and number of animals reported by the feedlot operator or observed by others, whichever is larger.

New feedlots in this district are also subject to 500 foot minimum setback, increasing at the rate of an additional two feet for each animal unit in excess of fifty, from any boundary which separates the district from a general shoreland district, general residential district, or municipality.

Notwithstanding the foregoing, the Town may grant a conditional use permit for the construction of a residence or establishment of a feedlot which does not meet the setback requirements provided that the permit is conditioned upon the applicant obtaining a covenant from the owner of record of each existing use from which the proposed use must be set back, which waives the protection of the setback and consents to the applicant's proposed use. The covenant must be in recordable form and binding on the grantor's heirs and assigns, and must be recorded by the applicant before the conditional use permit is effective.

The reciprocal setbacks established by this subpart shall not apply to feedlots which have been unused or abandoned for five years or more and also shall not apply to residential structures which have not been used as dwellings or otherwise used for human habitation for five or more years.

- 5.6 **Lots of Record.** Lots located in the County Recorder's office prior to December 31, 1999, which are located in an A-1 district and which do not meet the requirements of this section may be allowed as building sites provided:
- (A) Such use is permitted in the zoning district;
 - (B) The lot is in separate ownership from abutting lots or lands prior to December 31, 1999; and
 - (C) All sanitary and setback requirements of this ordinance are complied with.
- 5.7 **Existing Building Sites.** Existing building sites which are split from properties and converted to non-farm residential uses after the date hereof shall be nonetheless be deemed a lot of record provided the minimum lot size established for the district is met.

ARTICLE VI AGRICULTURE PROTECTION DISTRICT (A-2)

- 6.1 **Agriculture Protection District.** The purpose of the Agriculture Protection District (A-2) is to preserve and enhance agricultural land which is and has historically been farmed, and to protect agricultural use from scattered residential development and uses that conflict with the purpose of the district. In the Agriculture Protection District (A-2), no land or buildings shall be used in whole or part except for one or more of the following allowed uses.
- 6.2 **Permitted Uses.** The following uses are allowed within the Agriculture Protection District (A-2) as a matter of right:
- (A) Agricultural buildings.
 - (B) Single-Family Dwelling (frame or manufactured homes) and their accessory buildings located on one agricultural farm. A conditional use permit shall be required when the number of single-family dwellings per farm exceeds two (2). The sale of such dwelling or dwellings as non-farm dwellings must meet the requirements for non-farm dwellings in the district.
 - (C) Agricultural, horticultural, aquacultural and silvicultural activities including the pasturing of domestic livestock and exotic animals and birds, and existing animal feedlots and new or expanded feedlot requiring a permit or agreement under Minnesota Pollution Control Agency rules or a Verification of Compliance from the County, having a capacity of few than 500 animal units, except swine facilities, which are limited to having a capacity of fewer than 300 animal units.
 - (D) Farm drainage systems, flood control and watershed/erosion control devices meeting all County, state and federal minimum regulations.

- (E) Temporary or seasonal roadside stands with adequate off-street parking, not to exceed one stand per farm.
- (F) Forest and game management areas.
- (G) Existing golf courses.
- (H) Antennae when mounted on a rooftop or along a building or other structure.
- (I) Home occupations, subject to the requirements of Section 10.9 of the County Ordinance, or subsequent amendments thereto.
- (J) Accessory Solar Energy Systems: Agricultural/Farm Use, subject to the standards set forth in Section 9.3 of this Ordinance.

6.3 **Conditional Uses.** The following uses may be allowed in the Agriculture Protection District (A-2) as conditional uses, subject to the provisions regarding the issuance of a conditional use permit:

- (A) Home occupations
- (B) Cemeteries.
- (C) Solid waste processing facilities and sanitary landfills provided they meet all applicable County and state laws.
- (D) Mining of gravel.
- (E) Non-farm single family residential dwelling units to be placed or constructed on land which is woodland, is fallow, or is otherwise untilled or unsuitable for raising crops and which is located as near as practical to existing non-farm residential development provided, however, that the construction of non-farm single family residential structures is prohibited if the proposed structure will result in more than one non-farm residential structure being located within any quarter section (160 acres plus or minus fractional amounts to account for survey anomalies, loss to public roadway use, etc.). Prior to the issuance of a conditional use permit for a non-farm dwelling, the owner of the property shall be required to sign a statement of acknowledgement containing an "Acknowledgement of Agriculture Protection Zone Designation" disclosure. The acknowledgment shall be on a form provided by the Zoning Administrator and made available to the public. The disclosure forms shall be on file in the Town Hall.
- (F) Game farms, shooting ranges and commercial hunting establishments.
- (G) New and expanded feedlots having a permitted capacity of up to 2000 animal units.
- (H) Seasonal structures used for "hunting shacks" and not used for extended occupancy.
- (I) Other uses of the same general character as those listed above, provided they are not incompatible with existing adjacent uses.
- (J) Towers, subject to the standards set forth in Section 10.5 of the County Ordinance, or subsequent amendments thereto.
- (K) Motor vehicle salvage facility subject to the standards set forth in Section 10.14 of the County Ordinance, or subsequent amendments thereto.
- (L) Adult oriented uses subject to the standards set forth in Section 10.1 of the County Ordinance, or subsequent amendments thereto.
- (M) Expansion of existing golf courses.

- (N) Municipal wastewater treatment facilities.
- (O) A temporary single-family dwelling unit that is to be located within 300 feet of the existing residence for the purpose of home healthcare of immediate family member or seasonal worker housing. An annual inspection is required to validate applicable status.
- (P) Solar Energy Systems: Solar Garden equal to or less than two (2) MW, subject to the standards set forth in Section 9.3 of this Ordinance.

6.4 Minimum Lot Area for Lots/Structures.

Farm Residence	3 acres
New Residence	3 acres
Preserved Farm Homestead	3 acres

6.5 Setbacks.

- (A) Side Yard Setback: 10 feet
- (B) Unplatted cemetery: 50 feet
- (C) From Centerline of Public Roadways classified as:
 - Arterials 225 feet
 - Major Collectors 150 feet
 - Minor Collectors 125 feet
- (D) From Centerline of Town Roads and all other legal roads or streets not classified as an arterial or collector: 100 feet
- (E) Reciprocal Feedlot Setbacks: These setbacks apply to new structures or uses and do not apply to modifications or additions to established uses. Residential structures which serve farm property upon which feedlots are located or will be located are exempt from these requirements. Setbacks which apply across district boundaries shall be governed by the requirements of the district which provide for the largest setback. In all instances involving the setback of a residential use from a feedlot or a feedlot from a residential use, the setbacks shall be consistently applied in a manner which produces a reciprocal setback between the two uses. This section shall not limit the authority of the county to require separation between a planned agricultural development and a residential use greater than the provisions governing setbacks in the general districts as set forth below.

<u>Structure or Use</u>	<u>Setback From</u>	<u>Setback</u>
Non-Farm Residence	Feedlot	1320 foot minimum setback increasing at the rate of 2 feet for each permitted animal unit in excess of 300
Farm Residence	Feedlot	1320 foot minimum setback increasing at the rate of 2 feet for each permitted animal unit in excess of 300

Feedlot	Residence	1320 foot minimum setback increasing at the rate of 2 feet for each permitted animal unit in excess of 300
Feedlot	Feedlot	1320 foot minimum setback increasing at the rate of 2 feet for each permitted animal unit in excess of 300

In the case of an unpermitted feedlot, the setback shall be estimated based upon the size and number of animals reported by the feedlot operator or observed by others, whichever is larger.

Notwithstanding the foregoing, the Town may grant a conditional use permit for the construction of a residence or establishment of a feedlot which does not meet the setback requirements provided that the permit is conditioned upon the applicant obtaining a covenant from the owner of record of each existing use from which the proposed use must be set back, which waives the protection of the setback and consents to the applicant's proposed use. The covenant must be in recordable form and binding on the grantor's heirs and assigns, and must be recorded by the applicant before the conditional use permit is effective.

The reciprocal setbacks established by this subpart shall not apply to feedlots which have been unused or abandoned for five years or more and also shall not apply to residential structures which have not been used as dwellings or otherwise used for human habitation for five or more years.

6.6 **Lots of Record.** Lots located in the County Recorder's office prior to December 31, 1999, which are located in an A-2 district and which do not meet the requirements of this section may be allowed as building sites provided:

- (A) Such use is permitted in the zoning district;
- (B) The lot is in separate ownership from abutting lots or lands prior to December 31, 1999; and
- (C) All sanitary and setback requirements of this ordinance are complied with.

6.7 **Existing Building Sites.** Existing building sites which are split from properties and converted to non-farm residential uses after the date hereof shall be nonetheless be deemed a lot of record provided the minimum lot size established for the district is met.

ARTICLE VII INDUSTRIAL DISTRICT (I)

7.1 **Industrial District.** The purpose of the Industrial District (I) is to provide a location for industrial uses in the Town that would not be compatible with other uses and district in the Town.

7.2 **Permitted Uses.** The following uses are allowed within the Industrial District (I) as a matter of right:

- (A) Transportation or freight terminal.
- (B) Wholesale business.
- (C) Warehouse.
- (D) Cabinet shop.
- (E) Dwelling units for security persons and their families located on the premises where they are employed.
- (F) Antennae when mounted on a rooftop or along a building or other structure.
- (G) Accessory Solar Energy Systems: Industrial facility/on-site use, subject to the standards set forth in Section 9.3 of this Ordinance.

7.3 **Conditional Uses.** The following uses may be allowed in the Industrial District (I) as conditional uses, subject to the provisions regarding the issuance of a conditional use permit:

- (A) Restaurants.
- (B) Retail trade.
- (C) Mining and Extraction.
- (D) Manufacturing.
- (E) Agricultural products processing.
- (F) Contractors offices, shops and yards - such as building, cement, electrical, heating, ventilation and air conditioning, masonry, painting, plumbing, and refrigeration and roofing.
- (G) Auto repair shops.
- (H) Towers, subject to the standards set forth in Section 10.5 of the County Ordinance, or subsequent amendments thereto.
- (I) Motor vehicle salvage facilities, subject to the standards set forth in Section 10.14 of the County Ordinance, or subsequent amendments thereto.
- (J) Other uses compatible with and of the same general character as those listed provided.
- (K) Solar Energy Systems: Solar Garden or Farm, subject to the standards set forth in Section 9.3 of this Ordinance.

7.4 **Setbacks.**

- (A) Side Yard Setback: 10 feet
- (B) Unplatted cemetery: 50 feet
- (C) From Centerline of Public Roadways classified as:
 - Arterials 225 feet
 - Major Collectors 150 feet
 - Minor Collectors 125 feet
- (D) From Centerline of Town Roads and all other legal roads or streets not classified as an arterial or collector: 100 feet

7.5 **Lots of Record.** Lots located in an area zoned industrial which were of record in the County Recorder's office prior to the date on which an area was zoned industrial and which do not meet the requirements of this section may be allowed as building sites provided:

- (A) Such use is permitted in the zoning district;
- (B) The lot is in separate ownership from abutting lots or lands prior to the date on which the area was zoned industrial; and
- (C) All sanitary, dimensional, and setback requirements of this Ordinance are complied with.

ARTICLE VIII SPECIAL COMMERCIAL OVERLAY DISTRICT (SC)

8.1 **Special Commercial Overlay District.** The Special Commercial Overlay District (SC) is an overlay district within the districts identified above as set forth on the Town's Zoning Map. The purpose of the Special Commercial Overlay District (SC) is to enhance the economic growth potential of those areas sustainable for limited commercial development. In the Special Commercial Overlay District (SC), no land or buildings shall be used in whole or part except for one or more of the following allowed uses.

8.2 **Permitted Uses.** The following uses are allowed within the Special Commercial Overlay District (SC) as a matter of right:

- (A) Any permitted use allowed in the Residential District.
- (B) Duplex, triplex and quad residential uses provided that the requirements of the underlying district are met.
- (C) Home occupations, subject to the requirements of Section 10.9 of the County Ordinance, or subsequent amendments thereto.

8.3 **Conditional Uses.** The following uses may be allowed in the Special Commercial Overlay District (A-1) as conditional uses, subject to the provisions regarding the issuance of a conditional use permit:

- (A) Manufactured Home Parks, subject to the standards set forth in Section 10.13 of the County Ordinance, or subsequent amendments thereto.
- (B) Churches, chapels, temples, and synagogues, including Sunday Schools, Convents, and Parish houses meeting the requirements of the underlying district.
- (C) Public meeting places.
- (D) Recreational camping areas (Campgrounds), subject to the standard set forth in Section 10.19 of the County Ordinance, or subsequent amendments thereto.
- (E) Commercial uses provided that the lot is compatible with the proposed use in matters of appearance, lighting, hours of operation, parking, building height, sewage disposal, signs and lot size; and PUD standards are met.
- (F) Commercial planned unit development.

**ARTICLE IX
PERFORMANCE STANDARDS**

- 9.1 **Adoption and Incorporation of County Performance Standards.** The Town hereby adopts and incorporates herein by reference the performance standards adopted by the County and set forth at Sections 10.1 (Adult Oriented Uses), 10.3 (Agricultural Use Standards), 10.5 (Communications Towers and Antennas), 10.6 (Exterior Storage), 10.8 (Guest Houses), 10.9 (Home Occupations), 10.10 (Impervious Surface), 10.13 (Manufactured Home Parks), 10.14 (Motor Vehicle Salvage Facilities), 10.19 (Recreational Camping Areas), 10.22 (Soil Nutrient Application), 10.24 (Stormwater Management) and 10.30 (Vacation Home Rental) of the County Ordinance, and any subsequent amendments thereto.
- 9.2 **Aggregate Mining and Processing.** Mining, extraction and processing of aggregate shall comply with all of the following:
- 9.2.1 **Permit/Registration Requirements.** Current mine sites which are mining 500 cubic yards of gravel or more must provide a copy of any land use permit and annual registration required by the County. A conditional use permit is required for new or expanding mine sites mining more than 500 cubic yards of gravel.
- 9.2.2 **Compliance with State Environmental Review Requirements.** An Environmental assessment worksheet (“EAW”) or environmental impact statement (“EIS”) will be required in accordance with Minnesota law and Minnesota Rules.
- 9.2.3 **Definitions.**
- (A) **Administrator.** “Administrator” means the Zoning Administrator. If the Town Board does not specifically designate a person to serve as the Zoning Administrator, the Town Board shall serve as the Administrator and may delegate one or more of the duties of the position to one or more persons as the Town Board determines is appropriate.
- (B) **Environmental Assessment Worksheet (“EAW”).** “Environmental assessment worksheet” or “EAW” means a brief document which is designed to set out the basic facts necessary to determine whether an EIS is required for a proposed project or to initiate the scoping process for an EIS (Minnesota Rules, Part 4410.0200, Subpart 24).
- (C) **Environmental Impact Statement (“EIS”).** “Environmental impact statement” or “EIS” means a detailed written statement as required by Minnesota Statutes, section 116D.04, subdivision 2a (Minnesota Rules, Part 4410.0200, Subpart 26).

- (D) **Extractive Use.** “Extractive use” means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statute, Sections 93.44 to 93.51.

- (E) **Gravel Mining Site.** “Gravel mining site” means any site where the ground cover and top soil has been or are proposed to be removed and where any of the following activities are occurring or will occur: removal, crushing, washing, refining, borrowing, or processing. An “active” gravel-mining site is a site where any combination of the above-identified activities resulted in the handling of more than 500 yards of material within the preceding calendar year.

- (F) **Sensitive Shoreland Area.** “Sensitive shoreland area” means shoreland designated as a special protection district pursuant to Minnesota Rules, Part 6120.3200 or shoreland riparian to any of the following types of public waters:
 - (1) Lakes or bays of lakes classified as natural environment pursuant to Minnesota Rules, Part 6120.3000;
 - (2) Trout lakes and streams designated pursuant to Minnesota Rules, Part 6264.0050;
 - (3) Wildlife lakes designated pursuant to Minnesota Statutes, section 97A.101, subdivision 2;
 - (4) Migratory waterfowl feeding and resting lakes designated pursuant to Minnesota Statutes, section 97A.095, subdivision 2; or
 - (5) Outstanding resource value waters designated pursuant to Minnesota Rules, Part 7050.0335.

- (G) **Stormwater Pollution Prevention Plan (“SWPPP”).** “Stormwater pollution prevention plan” or “SWPPP” means a plan that describes the strategies and steps that will be taken to prevent nonpoint source pollution discharging from a site. The development of a proper SWPPP is a requirement of the National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Construction Stormwater (CSW) permits.

9.2.4 **Aggregate Mining and Processing Performance Standards.** The removal, crushing, washing, refining, borrowing or processing of gravel within the Town must comply with all of the following:

- (A) **Compliance.** Federal, state, county and Town regulations and permitting must be adhered to and obtained prior to operation.

- (B) **Annual Registration.** The purpose of the annual registration is to maintain an updated listing of active mineral extraction facilities in the

Town, to decertify any permits where the activity has ceased, to monitor compliance with the conditions of approval and to review bonding requirements.

(C) **Application Requirements.** The following information shall be provided by the landowner requesting the conditional use permit:

- (1) Name and address of person or agency requesting the mining permit.
- (2) The exact legal property description and acreage of area to be mined.
- (3) The following maps drawn at an engineer's scale showing the following information is required:
 - (a) Existing Conditions Map
 - (i) Topography at two (2) foot intervals and source of contour interval.
 - (ii) Existing vegetation (list type and percent of coverage; e.g. grassland, pasture, plowed field, wooded areas, etc.).
 - (iii) Waterways, watercourses, lakes, public water wetlands and delineated wetlands.
 - (iv) Existing structures.
 - (v) Existing wells.
 - (b) Proposed Operations Map
 - (i) Structures to be erected.
 - (ii) Location of sites to be mined, showing depth of proposed excavation.
 - (iii) Location of machinery to be used in the mining operation.
 - (iv) Location of tailing/stripping deposits showing maximum height of deposits.
 - (v) Location of storage and mined materials, showing the maximum height of storage deposits.
 - (vi) Location of vehicle parking, access roads and local routes to truck routes.
 - (vii) Location of storage areas for explosives.
 - (viii) Erosion and sediment control structures.
 - (ix) Cross-section sketch of the proposed mining operation.
 - (x) Location of the leak containment structure(s) for servicing trucks and machines in the event of a petrochemical leak or spill.

(c) End Use Plan Map

- (i) Final grade of proposed site showing elevations and contour lines at two (2) foot intervals.
 - (ii) Location and species of vegetation to be replanted.
 - (iii) Reclamation staging plan.
- (4) A plan for dust, noise, stormwater runoff (SWPPP) and erosion control.
 - (5) A full and adequate description of all phases of the proposed operation to include an estimate of duration of the mining operation, location and approximate acreage of each stage, and time schedule for completion.
 - (6) A Mining Operations & Reclamation Plan shall be completed and submitted to the Administrator.
 - (7) Any other information requested by the Planning Commission or Town Board.

(D) **Operating Standards.**

- (1) Weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and prevent the proliferation of noxious or invasive vegetation.
- (2) All equipment used for mining and extraction operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, noise, dust and vibration adversely affecting the surrounding property.
- (3) Safety fencing may be required around all or portions of the mining operation, at the discretion of the Town Board.
- (4) To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier may be required between the mining site and adjacent properties. A screening barrier may also be required between the mining site and any public road located within five hundred (500) feet of any mining or processing operation. The screening barrier shall be planted with a species of fast-growing trees.
- (5) Mining and processing of minerals shall not be conducted closer than two hundred fifty (250) feet from the property line nor closer than one thousand (1,000) feet from any residential, commercial or industrial structures without the written consent of all owners and residents of said structures. Mining and processing of minerals shall not be conducted closer than two hundred fifty (250) feet from the centerline of any Town road nor closer than one thousand three hundred twenty (1,320) feet from the centerline of any Public

Roadway classified as an arterial, major collector or minor collector.

- (6) Mining and processing operations shall not be conducted closer than one thousand three hundred twenty (1320) feet from another mining site.
- (7) Mining and processing operations shall not be conducted closer than one thousand three hundred twenty (1,320) feet from the boundary of any zoning district where such operations are not permitted.
- (8) Mining and processing operations shall not be conducted closer than two hundred fifty (250) feet from the ordinary high water level of any public water.
- (9) All buildings, structures and plants used for the production or processing of sand and gravel shall be maintained in such a manner as is practicable and according to acceptable industrial practice so as to assure that such buildings, structures and plants will not become dilapidated.
- (10) All access roads from mining operations to public highways, roads or streets, or to adjoining property shall be paved or surfaced to minimize dust considerations.
- (11) Surface mining below the upper limit of the static water table is prohibited unless otherwise approved by the Town Board. The upper limit of the static water table is the higher of the following:
 - (a) the depth at which regular mining operations are so impaired by the presence of standing water not associated with precipitation so as to require continuous drainage or dewatering; or
 - (b) the depth established as a static water by a Registered Engineer.

(E) Rehabilitation & Reclamation.

- (1) All mining sites shall be rehabilitated immediately after mining operations cease. Rehabilitation shall be complete within one (1) year. The following standards shall apply:
 - (a) The peaks and depressions of the area shall be graded and backfilled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion due to rainfall. No finished slopes shall exceed twenty-five (25) percent in grade.
 - (b) Reclaimed areas shall be surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least three (3) inches. The

topsoil shall be seeded, sodded, or planted with legumes and grasses. Such plantings shall adequately retard soil erosion.

- (2) The applicant or the owner of the property on which the mineral extraction is occurring must provide the Town a copy of the bond, letter of credit or cash escrow required by the County. The Town may require the applicant or owner of the property to post such additional bond, letter of credit or cash escrow in such form and sum as determined by the Town Board as part of the permit. The security shall be sufficient to reimburse the following costs:
 - (a) Costs of bringing the operation into compliance with the Town's Conditional Use Permit requirements, including site monitoring and enforcement costs.
 - (b) Costs of repairing Town 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 Engineer.
 - (c) Site restoration.
 - (d) Costs the Town may incur in enforcing the terms of the Conditional Use Permit, including attorney's fees.

9.3 **Wind Energy Conversion Systems ("WECS").** Wind energy conversion systems shall comply with all of the following:

9.3.1 **Purpose.** The purpose of this Ordinance is to set forth a process for permitting wind energy facilities with a rated capacity of less than 5,000 kilowatts (or five megawatts). MN Statutes 116C.697 pre-empts all local authority over permitting or regulating the construction or operation of wind power facilities of five megawatts (five million watts) of name plate generator capacity or greater.

9.3.2 **Definitions.** All definitions shall be recognized by the language referenced in Minnesota Rules, Chapter 4401 and Minnesota Statutes, Section 116C.697.

9.3.3 **Classification.** WECS shall be divided into the following categories and shall meet the respective requirements:

(A) **Hobbyist.** This type of system is designed for a nameplate rating not to exceed 40 kilowatts. The system may be connected to the commercial electrical grid and electricity sold. Several small owned turbines joined together are or may be considered to be commercial application.

- (1) Require a Conditional Use Permit, including a site plan.
- (2) Towers are free standing or guyed, and do not exceed 75 feet in height.

- (3) Systems that directly connect to the commercial electrical grid shall conform to National Electrical Code (NEC).
 - (4) Applications for WECS that directly connect to the commercial electrical grid shall be accompanied by a Net Excess Generation (NEG) contract with the respective electrical power company.
- (B) **Residential Commercial.** These systems are designed not to exceed 500 kilowatts of electrical output. The system may be connected to the commercial electrical grid and electricity sold. Applications for this use also require notification to the Minnesota Department of Commerce.
- (1) Require a Conditional Use Permit for towers not exceeding 170 feet in height, including a site plan.
 - (2) Non-free standing, guyed or non-lattice towers shall not exceed 120 feet in height. Guyed lattice towers shall not exceed 170 feet in height.
 - (3) Wind energy structural and mechanical systems engineering plan including soil investigation shall be developed by a qualified and licensed professional engineer to conform to applicable structural and mechanical standards.
 - (4) Systems that directly connect to the commercial electrical grid shall conform to National Electrical Code (NEC).
 - (5) Power Purchase Agreement (PPA) or other acceptable contract for the use or sale of power with the respective electrical power company is required as a condition of the Conditional Use Permit before the turbine is operable.
- (C) **Commercial.** These systems are designed exclusively to be connected to the commercial electrical grid and electricity sold with a nameplate rating exceeding 500 kilowatts. Applications for this use also require notification to the Minnesota Department of Commerce before any approval is granted.
- (1) Require a Conditional Use Permit.
 - (2) Towers shall not exceed 350 feet in height excluding the rotor blades.
 - (3) Wind energy structural and mechanical systems engineering plan including soil investigation shall be developed by a qualified and licensed professional engineer to conform to applicable structural and mechanical standards.
 - (4) Commercial systems shall conform to National Electrical Code (NEC).
 - (5) A Power Purchase Agreement (PPA) or other acceptable contract for use or sale of power with the respective electrical power company is required as a condition of the Conditional Use Permit before the turbine is operable.

- (D) **Experimental.** These systems are designed and operated exclusively for research, testing, prototyping, education, demonstration, and development to supply electricity to loads isolated from the commercial grid.
- (1) Require a Conditional Use Permit for towers 170 feet or less in height, including a site plan.
 - (2) Require a Conditional Use Permit for towers more than 170 feet in height, including a site plan.
 - (3) Non-free standing, guyed non-lattice towers shall not exceed 120 feet in height.
 - (4) Guyed lattice towers shall not exceed 170 feet in height.
 - (5) Wind energy structural and mechanical systems engineering plan including soil investigation shall be developed by a qualified and licensed professional engineer to conform to applicable structural and mechanical standards.
 - (6) Commercial systems shall conform to National Electrical Code (NEC).

9.3.4 Districts and Setbacks.

- (A) Except for the Hobbyist system or those with a nameplate rating that does not exceed 40 kilowatts, WECS's are allowed only in the Agricultural (A-1 and A-2), Industrial (I) and the Special Commercial Overlay (SC) Districts. WEC's are prohibited in the Residential and other districts.
- (B) In the Non-Intensive Agriculture District (A-1), WEC's with a nameplate rating exceeding one (1) megawatt are prohibited.
- (C) WEC's with a nameplate rating that does not exceed 40 kilowatts can be located within the shoreland zone of Natural Environment lakes that have less than 500 surface acres contingent that there is no adverse impact upon state and federal easements or related policies.
- (D) Except for the Hobbyist system, towers shall be located no closer than 750 feet from the nearest residence other than the applicant.
- (E) All towers shall be located no closer than five (5) rotor diameter (RD) from any other wind tower project.
- (F) Towers shall be set back from all residential structures, property lines, public road and railroad rights-of-way an amount equal to the height of the tower plus 25 feet. Guy wires for towers shall be set back 25 feet from all property lines and public road rights-of-way. Notwithstanding the foregoing, the Town may grant a conditional use permit for the construction of a residence or establishment of a WECS which does not meet these setback requirements provided that the permit is conditioned upon the applicant obtaining a covenant from the owner of record of each existing use from which the proposed use must be set back, which waives the protection of the setback and consents to the applicant's proposed use. The covenant must be in recordable form and binding on the grantor's

heirs and assigns, and must be recorded by the applicant before the conditional use permit is effective.

9.3.5 Additional Standards.

- (A) Towers shall be constructed of, and/or treated with corrosive resistant material.
- (B) WECS towers and electrical equipment shall be maintained and inspected according to manufacture's requirements by qualified personnel. Annual tower inspection reports shall be provided to the Town.
- (C) WECS electrical and mechanical equipment that is connected to a commercial electrical grid shall be maintained and inspected according to manufacturer's requirements by qualified personnel. Annual electrical equipment inspection reports shall be provided to the Town on forms provided and shall include total annual energy generated, total annual energy sold, average daily generation, and instantaneous maximum generation. A copy of these reports must be filed with the Minnesota Department of Commerce.
- (D) The use of any portion of a WECS tower for signs/placards other than warning, identification, or equipment information sign/placards is prohibited. Signs or placards for warning, identification, or equipment information shall not exceed six square feet or exceed 20 feet from ground. The manufacturer's or owner's name/logo printed on the nacelle is exempt from this standard.
- (E) The addition of any non-WECS's equipment to a WECS's tower is prohibited. Towers that do not exceed 75 feet in height are exempt from this requirement.
- (F) All towers must be painted a solid, natural tone color.
- (G) For lattice structures or towers with external ladder access or towers over 75 feet tall, a suitable protective anti-climbing solution must be approved by the Town.
- (H) The Permittee shall not operate a turbine so as to cause microwave, television, radio, telecommunications or navigation interference contrary to Federal Communications Commission ("FCC") regulations or other law. In the event the turbine and its associated facilities or its operations cause such interference, the Permittee shall take timely measures necessary to correct the problem.
- (I) Noise is regulated by the Minnesota Pollution Control Agency under Minnesota Rules, Chapter 7030. Any WECS shall not exceed 50 dB(A), as measured at the closest neighboring inhabited dwelling. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.
- (J) Each WECS permit or conditional use permit may include a utility building for protection of associated equipment not to exceed 100 square feet.

- (K) All towers shall utilize minimal lighting. No tower lighting other than normal security lighting shall be permitted except as may be required by the Federal Aviation Administration. It may be appropriate to allow for some infrared lights or heat lamps to prevent icing of sensors.
- (L) All towers must have a decommissioning plan which shall include a description of:
 - (1) When and how a facility is to be decommissioned.
 - (2) Estimated cost of decommissioning.
 - (3) If the WECS isn't removed within 12 months after cessation of the operations at a site, the Town may remove the tower and associated facilities and assess the costs of removal against the property, subject to the County's removal and assessment of such costs.
- (M) The following provisions must be followed to ensure that facilities are properly decommissioned upon the end of the project life or facility abandonment. Towers that have not been used for a period of twelve months must be decommissioned unless awarded an extension by the Town Board and shall follow the following requirements:
 - (1) Remove all structures and debris to a depth of four (4) feet.
 - (2) Restoration of the soil.
 - (3) Restoration of vegetation (consistent and compatible with surrounding vegetation).

9.4 Solar Energy Systems ("SES").

9.4.1 **Purpose.** This ordinance permits SES as either primary or accessory uses, while protecting the safety and welfare of adjacent and surrounding land uses through appropriate zoning and land use controls. Where general standards and specific criteria overlap, specific criteria shall supersede general standards. This Ordinance does not address utility-scale SES.

9.4.2 Classification.

- (A) **Accessory (<250 kW).** Accessory to the primary use of the land, designed to supply energy for onsite residential use.
 - (1) Rooftop SES are allowed accessory uses in all districts in which buildings are permitted. No land use permit is required.
 - (2) Ground-mount SES are permitted accessory uses in all districts in which buildings are permitted. Ground-mount systems require a County land use permit, a copy of which must be provided to the Town, and are subject to the standards for the district in which it is located, including setback, height, and impervious surface

coverage limits. The collector surface of a ground-mount system is not considered impervious surface, but any foundation, compacted soil, or other component of the solar installation that rests on the ground is considered impervious surface.

- (B) **Solar Garden (250 kW - < 2 MW).** Roof or ground-mount SES, may be either accessory or primary use.
 - (1) Rooftop SES are permitted in all districts in which buildings are permitted. No land use permit is required.
 - (2) Ground-mount Solar Gardens require a conditional use permit in all districts.
 - (3) All structures must comply with setback, height, and coverage limitations for the district in which the system is located.
 - (4) Ground-mount Solar Gardens must comply with all required standards for structures in the district in which the system is located.

- (C) **Solar Farm (2 MW - < 50 MW).** Roof or ground-mount SES, generally a primary use, designed for export to the wholesale market or connection to the electric transmission grid.
 - (1) Rooftop SES are permitted in all districts in which buildings are permitted.
 - (2) Ground-mount Solar Farms require a conditional use permit in all district.
 - (3) All structures must comply with setback, height, and coverage limitations for the district in which the system is located.
 - (4) Ground-mount Solar Farms must comply with all required standards for structures in the district in which the system is located.

- (D) **Utility (\geq 50 MW).** Large scale SES of equal to or greater than 50 MW are reviewed and permitted by the State.

9.4.3 **Definitions.** The following words, terms and phrases, when used in this Section, shall have the meaning provided herein, except where the context clearly indicates otherwise:

- (A) **Accessory Use.** “Accessory use” means a use customarily incidental and subordinate to the primary use or building and located on the same lot therewith. A use which dominates the primary use or building in area, extent, or purpose shall not be considered an accessory use.
- (B) **Administrator.** “Administrator” means the Zoning Administrator. If the Town Board does not specifically designate a person to serve as the Zoning Administrator, the Town Board shall serve as the Administrator

and may delegate one or more of the duties of the position to one or more persons as the Town Board determines is appropriate.

- (C) **Building-Integrated Solar Energy System.** “Building-integrated solar energy system” means an active SES that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems are contained within roofing materials, windows, skylights and awnings.
- (D) **Electricity Generation.** “Electricity generation” means the amount of electric energy produced by transforming other forms of energy, commonly expressed in kilowatt-hours (“kWh”) or megawatt-hours (“MWh”).
- (E) **Kilowatt-hour (“kWh”).** “Kilowatt-hour” or “kWh” means a unit of energy equivalent to one kilowatt (1 kW) of power expended for 1 hour of time.
- (F) **Megawatt-hour (“MWh”).** “Megawatt-hour” or “MWh” means a unit of energy equivalent to one Megawatt (1 MW) of power expended for 1 hour of time.
- (G) **Electrical Equipment.** “Electrical equipment” means any device associated with an SES, such as an outdoor electrical unit/control box, that transfers the energy from the SES to the intended on-site structure.
- (H) **Mounting.** “Mounting” means the manner in which a solar PV system is affixed to the roof or ground (i.e. roof mount, ground mount).
- (I) **Roof-Mount System.** “Roof-mount system” means an SES consisting of solar panels installed directly on the roof of a home, commercial building, or an accessory structure, such as a garage, pergola, or shed. Solar panels are mounted and secured using racking systems specifically designed to minimize the impact on the roof and prevent any leaks or structural damage. Roof-mount systems can be mounted flush with the roof or tilted toward the sun at an angle.
- (J) **Ground-Mount System.** “Ground-mount system” means an SES that is directly installed on specialized solar racking systems, which are attached to an anchor in the ground and wired to connect to an adjacent home, building or agriculture structure. Ground-mount systems may be applicable when insufficient space, structural and shading issues, or other restrictions prohibit rooftop solar.
- (K) **Power.** “Power” means the rate at which work is performed (the rate of producing, transferring, or using energy). Power is measured in Watts (W), kilowatts (kW), Megawatts (MW), etc.
 - (1) A kilowatt is equal to 1000 Watts; a measure of the use of electrical power.
 - (2) A Megawatt is equal to 1000 Kilowatts; a measure of the use of electrical power.

- (L) **Racking.** “Racking” means SES that are attached securely and anchored to structural sections of the roof-mount or ground-mount systems. Specially designed metal plates called flashings prevent leaks and are placed under shingles and over bolts to create a water-tight seal.
- (M) **Solar Access.** “Solar access” means the ability of one property to continue to receive sunlight across property lines without obstruction from another’s property (buildings, foliage or other impediment). Solar access is calculated using a sun path diagram.
- (N) **Solar Array.** “Solar array” means multiple solar panels combined together to create one system.
- (O) **Solar Collector.** “Solar collector” means a device, structure, or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.
- (P) **Solar Energy.** “Solar energy” means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
- (Q) **Solar Energy System (“SES”).** “Solar energy system” or “SES” means a system capable of collecting and converting solar radiation into heat or mechanical or electrical energy and transferring these forms of energy by a separate apparatus to storage or to point of use, including, but not limited to, water heating, space heating or cooling, electric energy generation, or mechanical energy generation.
- (R) **Solar Glare.** “Solar glare” means the effect produced by light reflecting from a solar panel with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.
- (S) **Substation.** “Substation” means any electrical facility containing power conversion equipment designed for interconnection with power lines. Part of the electrical transmission system converting high voltage to low voltage or converting low voltage to high voltage for incorporation into the electrical power grid.
- (T) **Tilt.** “Tilt” means the angle of the solar panels and/or solar collector relative to their latitude. The optimal tilt to maximize solar production is perpendicular, or 90 degrees, to the sun’s rays at true solar noon. True solar noon is when the sun is at its highest during its daily east-west path across the sky. SES can be manually or automatically adjusted throughout the year. Alternatively, fixed-tilt systems remain at a static tilt year-round.

9.4.4 Solar Energy System Performance Standards.

- (A) **Setbacks.**
 - (1) Accessory SES must meet minimum structure setbacks for the corresponding zoning district.
 - (2) Non-residential Accessory SES, Solar Gardens and Solar Farms must meet minimum structure setbacks for the corresponding zoning district and be located a minimum of five hundred (500) feet from a residential dwelling not located on the property.

Setbacks shall be measured to the nearest solar array or other structure within the SES, excluding security fencing, screening or berm.

- (3) Solar Gardens and Solar Farms must be setback from the centerline of public roadways in all zoning districts as per the following:
 - (a) One thousand three hundred twenty (1,320) feet from the centerline of Arterial, Major Collector and Minor Collector roads; and
 - (b) Two hundred fifty (250) feet from the centerline of Town roads and other local roads.
 - (4) Solar Gardens and Solar Farms must be setback one thousand, three hundred twenty (1,320) feet from another Solar Garden or Solar Farm.
- (B) **Maximum Height.** Ground-mount systems shall not exceed twenty-five (25) feet in height at maximum ground tilt. Roof-mount SES shall not exceed the maximum allowed height in any zoning district. For purposes of height measurement, SES other than building-integrated SES shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices for the zoning district in which the system is being installed, except that SES shall not be required to be screened.
- (C) **Impervious Surface.** Impervious Surface includes any foundation, poles, compacted soil and other impervious components of the solar installation that rests on the ground. Vegetated ground under the collector surface can be used to mitigate stormwater runoff.
- (D) **Vegetation.** All conditional use permit projects are required to meet the following vegetation standards:
- (1) The project site design shall include the installation and establishment of ground cover meeting the beneficial habitat standards consistent with Minnesota Statutes, Section 216B.1642, or successor statutes and guidance as set by the Minnesota Board of Water and Soil Resources, which includes but is not limited to:
 - (a) The DNR Prairie Establishment & Maintenance Technical Guidance for Solar Projects, BWSR Sample Specifications for the Establishment of Native Vegetation as Part of Habitat Friendly Solar Projects, and/or any successor guidance shall be utilized.
 - (b) BWSR Solar Site Pollinator Habitat Assessment Form for Project Planning must be completed and submitted, a minimum score of 70 must be attained to receive “Habitat Friendly Solar” status.

- (2) Beneficial habitat standards shall be maintained onsite for the duration of operations, until the site is decommissioned.
 - (3) To ensure beneficial habitat standards are maintained the site shall be inspected by an independent, third-party professional each year until year 3, then on a triennial basis. BWSR Solar Site Pollinator Habitat Assessment Form for Established Plantings (after year 3) shall be completed by an appropriately trained ecologist every 3 years to ensure maintenance of the beneficial habitat standards.
- (E) **Stormwater and Erosion Control.** Systems shall be in compliance with Section 10.24 of the County Ordinance, and any subsequent amendments thereto. Best Management Practices shall be utilized for managing erosion control.
 - (F) **Slope.** Structures may not be placed on slopes over 12%.
 - (G) **Floodplain.** Structures may not be placed in the floodway. If the floodway is not shown on the official maps, an analysis is required to demonstrate the structures are outside the floodway.
 - (H) **Signage.** The use of any portion of a SES for signs/placards other than warning, identification, or equipment information sign/placards is prohibited. Signs or placards for warning, identification, or equipment information shall not exceed six square feet or exceed 20 feet from ground.
 - (I) **Aviation.** Solar panels shall not be placed in the vicinity of any airport in a manner that would interfere with airport flight patterns. Acknowledgement from the Federal Aviation Administration (FAA) may be necessary.
 - (J) **Glare.** Solar panels shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways. All SES using a reflector to enhance solar production shall minimize glare from the reflector that affects adjacent or nearby properties. Steps to minimize glare nuisance may include selective placement of the system, screening on the north side of the solar array, reducing use of the reflector system, or other remedies that limit glare.
 - (K) **Other Standards and Codes.**
 - (1) All power transmission lines from a ground-mount SES to any building or other structure shall be located underground.
 - (2) Systems shall be designed and operated in a manner that protects public safety.
 - (3) Systems shall be in compliance with any applicable local, state and federal regulatory standards, including, but not limited to, the State of Minnesota Uniform Building Code, as amended, and the Minnesota and National Electric Code, as amended.
 - (4) Electric SES components that are connected to a building electric system must have an Underwriters Laboratory (UL) listing.

- (5) The installation and ongoing maintenance of the SES shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), or other similar certifying organizations, and shall comply with all other applicable fire and life safety requirements.
- (6) Upon completion of installation, all components of the SES shall be maintained in good working order in accordance with standards of the codes under which it was constructed. Failure of the property owner to maintain the SES in good working order is grounds for appropriate enforcement.

9.4.5 **Application Requirements.** The following requirements are for SES conditional use permit applications.

- (A) A site plan of existing conditions drawn at an engineer's scale showing the following:
 - (1) Existing property lines and property lines extending three hundred (300) feet from the exterior boundaries, including the names of the adjacent property owners and current use of those properties.
 - (2) Existing public and private roads, showing widths of the roads and any associated easements.
 - (3) Location and size of any existing or abandoned wells, and sewage treatment systems.
 - (4) Existing buildings and any impervious surface.
 - (5) Topography at two (2) foot intervals and source of contour interval. A contour map of surrounding properties may also be required.
 - (6) Existing vegetation (list type and percent of coverage; e.g. grassland, pasture, plowed field, wooded areas, etc.).
 - (7) Waterways, watercourses, lakes, public water wetlands and delineated wetlands.
 - (8) The one Hundred (100) - year flood elevation and Regulatory Flood Protection Elevation, if applicable.
 - (9) Floodway, flood fringe and/or general flood plain district boundary, if applicable.
 - (10) The County shoreland district boundary, if any portion of the project is located within a County shoreland district.
 - (11) In the shoreland district, the ordinary high water level and the highest known water level.
 - (12) In the shoreland district, the toe and top of any bluffs within the project boundaries.
 - (13) Surface water drainage patterns.
 - (14) Mapped soils according to the USDA NRCS Web Soil Survey.

- (B) A site plan of proposed conditions drawn at an engineer's scale showing the following:
 - (1) Topography at two (2) foot intervals and source of contour interval.
 - (2) Location and spacing of solar panels.
 - (3) Location of access roads.
 - (4) Planned location of underground electric lines connecting the SES to the building, substation or other electric load.
 - (5) New electrical equipment other than at the existing building or substation that is the connection point for the SES.
 - (6) Sketch elevation of the premises accurately depicting the proposed SES and its relationship to structures on adjacent lots (if any).
- (C) To determine the existence of wetlands, a Level 2 wetland delineation is required. Other levels may be appropriate if approved by the Administrator.
- (D) Verification, by the local Wetland Conservation Act Specialist, that the proposed project will not negatively impact or be located in an identified wetland.
- (E) Manufacturer's specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles or racks.
- (F) Number of Solar Collectors to be installed.
- (G) A description of the method of connecting the array to a building or substation.
- (H) Ground-mount system applications shall identify existing vegetation on installation site (list type and percent of coverage; e.g. grassland, plowed field, wooded areas, etc.), and provide a maintenance plan for controlling vegetative growth onsite upon installation of the SES.
- (I) A Preliminary Stormwater Pollution Prevention Plan (SWPPP) will be required, designed as per the Minnesota Stormwater Manual.
- (J) An analysis of the potential visual impacts from the project including solar panels, roads and fencing along with measures to avoid, minimize or mitigate the visual effects shall be required. A plan may be required showing vegetative screening or buffering of the system from those items to mitigate for visual impacts.
- (K) If the project is within two miles of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or successor policy. The applicant must also complete the Air Space Case Analysis (Form 7460) and provide the results.
- (L) Decommissioning Plan & Escrow.

- (1) Solar Garden and Solar Farm scale SES require a Decommissioning Plan in accordance with the following Section.
- (2) The Town Board requires the owner and/or operator of the Solar Garden or Solar Farm scale SES to provide the Town a copy of the financial surety required by the County. In order to ensure that decommissioning shall be completed if the applicant or operator for any reason fails to meet the requirements of the Decommissioning Plan, the Town may require the owner and/or operator to post a bond, letter of credit or the establishment of a cash escrow in an amount equal to the cost estimate provided in accordance with the Decommissioning Plan.
- (3) Any financial surety arrangement shall be approved by the Town Attorney as to form and issuing bank (the issuing bank must be an FDIC insured bank and must be available in its entirety to fulfill the obligations of the surety arrangement). Any letter of credit to the Town shall contain language requiring its automatic renewal prior to December 31 of each calendar year, unless cancellation of the letter of credit is specifically approved in writing by the Town Board.

9.4.6 **Decommissioning.** A decommissioning plan shall be submitted with all applications for Solar Garden and Solar Farm scale SES.

- (A) Decommissioning plans shall outline the anticipated means and cost of removing the system at the end of its serviceable life or upon it becoming a discontinued use. The cost estimates shall be made by a competent party, such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The salvage or resale value of the infrastructure shall not be used in calculating any offset or credit against the estimate of the total cost to remove the infrastructure and reclaim the property to its original condition. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the system.
- (B) Decommissioning of the system must occur within ninety (90) days of either of the following:
 - (1) The end of the system's serviceable life; or
 - (2) The system becomes a discontinued use.
- (C) A system shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Administrator outlining the steps and schedule for returning the system to service.
- (D) If a ground-mount SES is removed, any earth disturbance as a result of the removal of the ground-mount SES shall be graded and reseeded.

- (E) If a ground-mount SES has been abandoned (meaning not having been in operation for a period of six (6) months) or is defective or is deemed to be unsafe by the Administrator, the SES shall be required to be repaired by the owner to meet federal, state and local safety standards, or be removed by the property owner within the time period allowed by the Administrator. If the owner fails to remove or repair the defective or abandoned SES, the Administrator may pursue legal action to have the system removed at the owner's expense.

ARTICLE X NONCONFORMING USES, STRUCTURES, AND LOTS

- 10.1 **Purpose.** It is the purpose of this Article 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. This Ordinance establishes separate zoning 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 will not be permitted to continue without restriction. Furthermore, it is the intent of this section that all non-conforming uses shall be eventually brought into conformity.
- 10.2 **Nonconforming Uses and Structures.** Except as otherwise provided by law or this Ordinance, any use or structure lawfully existing on the effective date of this Ordinance may be continued at the size and in the manner of operation existing upon such date, subject to the following conditions:
 - (A) Except as expressly allowed by this Ordinance, a nonconforming use or structure shall in no way be expanded, enlarged, or extended, either on the same property or onto an adjoining lot of record. Prohibited expansion, enlargement, or extension shall include anything that increases the intensity of the use including, but not limited to, a change to a more intense nonconforming use or a physical expansion of the existing use or structure that increases the height, volume, or area dimensions of the non-conforming use or structure;
 - (B) Routine maintenance of a structure containing or relating to a lawful nonconforming use is permitted, including any necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use. Nothing in this Section will prevent the placing of a structure into a safe condition after it has been declared unsafe by the appropriate official;
 - (C) Alterations may be made to a building containing nonconforming residential units when the alterations will improve the livability of such units, provided that such alterations do not increase the number of dwelling units in the building. Such alterations must be approved by the Zoning Administrator;

- (D) Whenever a nonconforming structure or use is damaged by fire or other peril to the extent of 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, it may be reconstructed. The nonconforming structure or use shall not be permitted to be reconstructed if the damage is greater than 50 percent of the estimated market value as indicated in the records of the County Assessor at the time of damage and no building permit has been applied for within 180 days of when the property was damaged. When a nonconforming structure in a shoreland area with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, the structure setback may be increased by the Town or County, if practical. In that event, conditions will be placed on the building permit in order to mitigate created impacts on adjacent properties and the water body;
- (E) Whenever any lawful nonconforming use of any structure or land is replaced by another use or structure, the new use or structure must conform to the provisions of this Ordinance and it shall not thereafter be changed to any nonconforming use or structure;
- (F) If the nonconforming use of land is discontinued for a period of more than one year, the subsequent use of the land or the structure shall be in conformity with this Ordinance;
- (G) Nonconforming uses or structures which are declared by the Town Board to be public nuisances shall not be allowed to continue as legal nonconforming uses or structures; and
- (H) No repair, replacement, maintenance, improvement, or expansion of a nonconforming use or structure in a floodplain area shall be allowed if such activity would jeopardize the property's continued eligibility in the National Flood Insurance Program, would increase flood damage potential, or would increase the degree of obstruction to flood flows in the floodway.

ARTICLE XI ADMINISTRATION

- 11.1 **Zoning Administrator**. The Town Board may appoint a person to serve as the Zoning Administrator for the Town. If the Town Board does not specifically designate a person to serve as the Zoning Administrator, the Town Board shall serve as the Zoning Administrator and may delegate one or more of the duties of the position to one or more persons as the Town Board determines is appropriate. Such person or persons shall be fully authorized to carry out the delegated duties on behalf of the Town.

11.1.1 **Duties.** The Zoning Administrator shall have the following duties, which shall be conducted in a manner which is consistent with this Ordinance, applicable laws, and the directions and instructions of the Town Board:

- (A) Administer the provisions of this Ordinance;
- (B) Determine whether a permit application is complete and complies with the terms of this Ordinance;
- (C) Receive, and forward to the Planning Commission, Board of Appeals and Adjustments, or Town Board applications and other zoning materials as is appropriate;
- (D) Issue permits once they have been approved as provided in this Ordinance;
- (E) Issue notices of denial to applicants;
- (F) Maintain permanent and current records of permits and approvals issued pursuant to this Ordinance, including, but not limited to, amendments to this Ordinance, issuance of conditional use permits, variance approvals, and appeals;
- (G) Conduct inspections to determine compliance with the provisions of this Ordinance and institute in the name of the Town, any appropriate actions or proceedings against a violator as provided by this Ordinance or law;
- (H) Serve as an ex-officio member of the Planning Commission;
- (I) Collect all fees required by this Ordinance and pay the same to the Town;
- (J) Track the application of the 60-day rule to land use requests, provide notices to applicants as may be needed, and to keep the Town informed of the applicable deadlines for actions with respect to individual land use requests;
- (K) File for record with the Pope County Recorder or Registrar of Titles all zoning related documents required to be filed by law;
- (L) To enforce this Ordinance, including through the issuance of violation notices, stop work orders, cease and desist orders, or corrective orders as determined appropriate, and to work with the Town Attorney as needed to administer and enforce this Ordinance; and
- (M) To perform such other duties and responsibilities as provided in this Ordinance or as assigned by the Town Board.

11.2 **Board of Appeals and Adjustments.** The Town Board shall serve as the Glenwood Township Board of Appeals and Adjustments.

11.2.1 **Rules and Procedures.** The Board of Appeals and Adjustments may adopt rules and procedures related to how it conducts its meetings and hearings, provided such rules and procedures are consistent with the provisions of this Ordinance and applicable laws.

11.2.2 **Meetings and Hearings.** The Board of Appeals and Adjustments will hold meetings and hearings as needed to conduct its duties. Meetings of the Board of Appeals and Adjustments may be held as part of the regular or special meetings of the Town Board.

11.2.3 **Powers and Duties.** The Board of Appeals and Adjustments shall have the following powers and duties:

- (A) To grant variances from the strict enforcement of the standards and provisions prescribed by this Ordinance. Variances shall only be granted based upon the criteria prescribed in this Ordinance;
- (B) To hear and decide appeals. Appeals shall only be heard and considered in conformance with the procedures prescribed in this Ordinance;
- (C) To interpret the provisions of this Ordinance and of any district boundary on the land use map; and
- (D) Perform such other duties as provided in this Ordinance.

ARTICLE XII ZONING REQUESTS

12.1 **Conditional Use Permits.**

12.1.1 **Criteria for Granting Conditional Use Permits.** In determining whether to grant a conditional use permit, the Planning Commission and Town Board shall consider the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding lands and water bodies. Among other things, the Planning Commission and Town Board shall consider the following criteria in determining whether to approve a requested conditional use permit:

- (A) The use will not create an excessive burden on existing parks, schools, roads, and other public facilities and utilities which serve or are proposed to serve the area;

- (B) The use will be sufficiently compatible or separated by distance or screening from adjacent agriculturally or residentially zoned or used land so that existing property will not be depreciated in value and there will be no deterrence to development of vacant land;
- (C) The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties;
- (D) The use, in the opinion of the Planning Commission and Town Board, is reasonably related to the existing land use;
- (E) The use is consistent with the purpose of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use;
- (F) The use is not in conflict with the Land Use Plan of the Town; and
- (G) The use will not cause traffic hazards or congestion.

12.1.2 **Conditions of Approval.** In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may recommend, and the Town Board may impose, in addition to these standards and requirements expressly specified by this Ordinance, additional conditions considered necessary to protect the best interest of the surrounding area or the community as a whole. These conditions include, but are not limited to, the following:

- (A) Increasing the required lot size or yard dimension;
- (B) Limiting the height, size or location of buildings;
- (C) Controlling the location and number of vehicle access points;
- (D) Increasing the road width;
- (E) Increasing the number, size, location or lighting of signs;
- (F) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property;
- (G) Designation of open space;
- (H) Annual review if deemed appropriate by the Town Board; and
- (I) Such other conditions as deemed necessary to eliminate or reduce the negative impacts of the use.

12.1.3 Procedure.

- (A) Applications for conditional use permits will not be accepted from anyone who is not an owner of land for which the application is made.
- (B) The person applying for a conditional use permit shall fill out and submit to the Zoning Administrator a conditional use permit application form and application fee.
- (C) The Zoning Administrator shall refer the application to the Planning Commission for review.
- (D) The Planning Commission shall hold a public hearing on the application. At least ten (10) days' published notice shall be provided of the public hearing. The Planning Commission shall forward its recommendation to either deny or approve the conditional use permit to the Town Board together with any recommended conditions. The Town Board will take final action on the request. A written record of conditions of approval shall be made at the time of the decision by the Town Board.
- (E) The applicant or his representative shall appear before the Planning Commission in order to present evidence concerning the proposed conditional use;
- (F) If the Planning Commission recommends granting the conditional use permit, it may recommend conditions it considers necessary to protect the public health, safety and welfare.
- (G) An amended conditional use permit application shall be administered in a manner similar to that required for a new conditional use permit. Amended conditional use permits shall include requests for changes in conditions and as otherwise described in this Ordinance.
- (H) No application for a conditional use permit shall be resubmitted for a period of six (6) months from the date of denial.
- (I) Granted conditional use permits shall become void if the applicant does not proceed substantially on the work within six (6) months, where applicable. To proceed substantially means to make visible improvement to the property. One or more extensions for not more than six (6) months each may be granted by the Town Board for good cause.
- (J) If the land use does not conform to the conditions of the permit, the conditional use permit may be revoked after notice to the applicant of a public hearing for the intended revocation and passage of a resolution of the Town Board to that effect.

- (K) All conditional use permits that are granted by the Town Board must be recorded at the office of the Pope County recorder at the applicant's expense.
- (L) The Zoning Administrator shall maintain a record of all conditional use permits issued including information on the use, location, and conditions imposed by the Planning Commission and Town Board, time limits, review dates, and such other information as may be appropriate.

12.1.4 **Amended Conditional Use Permit.** Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued, shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued.

12.2 **Variances.** No variances shall be granted by the Town except in conformance with this Section.

12.2.1 **Authority:** The Board of Appeals and Adjustments may grant a variance from the provisions of this Ordinance in order to promote the effective and reasonable application and enforcement of this Ordinance. A variance is a modification or variation of the provisions of this Ordinance as applied to a specific property. The Board of Appeals and Adjustments may not grant a variance for any use that is not allowed by this Ordinance for property in the zoning district in which the property is located. The Board of Appeals and Adjustments may grant a variance for the temporary use of a one family dwelling as a two family dwelling and may grant a variance for an earth sheltered construction as defined in Minnesota Statutes, section 216C.06, subdivision 14 when such construction would be in harmony with this Ordinance.

12.2.2 **Application:** Application for a variance shall be made by the property owner, or its authorized agent, on the Town's application form, be accompanied by the required application fee and escrow (if required), and must, at a minimum, contain all of the following information:

- (A) The name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the application relates;
- (B) The name of the applicant and of all owners of the property to which the application relates;
- (C) A description of the proposed use or structure to which the variance relates; and

- (D) An explanation of the specific conditions and circumstances that give rise to the practical difficulties in strictly complying with the provisions of this Ordinance and the specific provisions of this Ordinance from which a variance is being sought.

12.2.3 **Procedure.** Requests for a variance shall comply, and shall be processed in accordance, with the following:

12.2.3.1 **Zoning Administrator.** An application for a variance must be submitted to the Zoning Administrator. The Zoning Administrator shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required fees. If an application is not complete, the Zoning Administrator shall provide the applicant written notice of what information is needed in order to make the application complete within 15 days of the Town's receipt of the application. The Zoning Administrator shall forward complete applications to the Planning Commission to conduct a hearing.

12.2.3.2 **Notice.** At least ten days before the date of the hearing, notice shall be published in the Town's official newspaper and mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the application relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.

12.2.3.3 **Site Investigation.** The Town may conduct one or more site investigations of the property as part of processing a variance application. If a quorum or more of the Planning Commission or the Board of Appeals and Adjustments conducts a site investigation, notice shall be posted at the Town's posting places at least three days before the date of the inspection unless the inspection is being conducted as part of the hearing. The Town may also conduct one or more site investigations after a variance has been issued to review an alleged or potential violation of the conditions of the variance or of this Ordinance. Submission of an application, and acceptance of a variance, constitutes consent on the part of the owners of the property to the conditions imposed on the variance and to allow the Town to conduct inspections of the property at reasonable times to determine eligibility to receive a variance and then related to the administration and enforcement of the variance.

12.2.3.4 **Planning Commission.** The Planning Commission shall conduct a public hearing on the proposed variance and develop a recommendation to the Board of Appeals and Adjustments regarding the proposed variance. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Planning Commission's questions. In reviewing the request and developing its recommendation, the Planning Commission shall consider the criteria set out in this Section and such other factors as it determines are appropriate to evaluate the proposed use. It is the owner's burden to demonstrate it is eligible to receive the requested variance. If the Planning Commission recommends approval of the variance, its recommendation shall include the conditions it recommends be placed on the variance. The recommendation shall include any conditions the Planning Commission determines are appropriate and reasonable to address anticipated impacts of the proposed use in order to protect the public health, safety, and welfare. The Planning Commission shall forward its recommendation, together with its supporting findings, to the Board of Appeals and Adjustments.

12.2.3.5 **Board of Appeals and Adjustments.** The Board of Appeals and Adjustments shall make the final decision regarding the requested variance after conducting a public hearing. The Board of Appeals and Adjustments shall not issue a variance unless it determines that the particular request satisfies the criteria set out in this Section. The Board of Appeals and Adjustments may impose such conditions on the variances it issues as it determines are reasonable. All such conditions must be directly related to and bear at least a rough proportionality to the impact the Board of Appeals and Adjustments determines will be created by the variance.

12.2.4 **Criteria.** The owner has the burden of demonstrating that sufficient practical difficulties exist, based on the following criteria, with respect to its property to justify the issuance of a variance. The Board of Appeals and Adjustments shall consider the following criteria in determining whether to issue a variance:

- (A) The variance is in harmony with the general purposes and intent of this Ordinance;
- (B) The variance is consistent with the Land Use Plan;
- (C) The owner proposes to use the property in a reasonable manner not permitted by this Ordinance;

- (D) The plight of the owner is due to circumstances unique to the property that were not created by the owner;
- (E) If granted, the variance will not alter the essential character of the locality; and
- (F) Economic considerations are not the sole basis for the requested variance.

12.2.5 **Recording.** The Town Board will record, at the owners' expense, the variances it issues.

12.2.6 **Expiration and Revocation.** A variance shall expire and become void if the use or structure to which it relates is not substantially started within 12 months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The Board of Appeals and Adjustments may revoke a variance if it determines, after notice to the owner and conducting a public hearing, that any of conditions imposed on the variance have been violated.

12.3 **Amendments.** An amendment to the text of this Ordinance or of the land use map, including requests to rezone property, may only occur as provided in this Section.

12.3.1 **Who May Initiate:** An amendment to this Ordinance or the land use map may be initiated by the Town Board, the Planning Commission, or by application of an affected property owner. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the Town Board until it has received the Planning Commission's recommendations, or until at least 60 days after the proposed amendment was submitted to the Planning Commission.

12.3.2 **Application.** An owner seeking an amendment, including a request to rezone property, shall complete the Town's application form, together with the required application fee and escrow (if required), and the application must, at a minimum, contain all of the following information:

- (A) If the application involves a request to change district boundaries affecting an area of five acres or less, the name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the application relates;
- (B) The name of the applicant and of all owners of the property to which the application relates; and
- (C) A description of the specific provisions of the Ordinance, or the proposed change in zoning, and proposed change.

12.3.3 **Procedure.** Applications for an amendment, including rezoning, shall comply, and shall be processed in accordance, with the following:

12.3.3.1 **Zoning Administrator.** An application for an amendment must be submitted to the Zoning Administrator. The Zoning Administrator shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required fee. If an application is not complete, the Zoning Administrator shall provide the applicant written notice of what information is needed in order to make the application complete within 15 days of the Town's receipt of the application. The Zoning Administrator shall forward complete applications to the Planning Commission to conduct a hearing.

12.3.3.2 **Town Initiated Amendments.** An amendment proposed by the Planning Commission shall be forwarded in writing to the Town Board for review. If the Town Board authorizes the Planning Commission to proceed with the amendment, the Planning Commission shall hold a hearing on the proposed amendment in accordance with the Town Board's authorization and this Section. If the Town Board initiated the amendment, the Planning Commission shall hold a hearing on the proposed amendment in accordance with this Section.

12.3.3.3 **Notice.** At least ten days before the date of the hearing, notice shall be published in the Town's official newspaper. If the application involves a request to change district boundaries affecting an area of five acres or less, the notice shall also be mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the application relates at least ten days before the hearing. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.

12.3.3.4 **Planning Commission.** The Planning Commission shall conduct a public hearing on the proposed amendment and develop a recommendation to the Town Board regarding the proposed amendment. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Planning Commission's questions. The Planning Commission shall forward its recommendations regarding a proposed amendment to the Town Board for final action.

12.3.3.5 **Town Board.** The Town Board shall take action on the proposed amendment at a Town Board meeting. Approval of an amendment shall be by ordinance amending this Ordinance. If the amendment was initiated by application of an owner, the Town shall inform the property owner of the Town Board's decision.

12.3.4 **Limit on Similar Applications.** No application of an owner for an amendment to the text of the Ordinance or the Zoning Map shall be considered by the Town within a one-year period following a denial of such request, except that a new application may be allowed if, in the opinion of the Zoning Administrator, there is new evidence or a sufficient change of circumstances to warrant additional consideration of the proposal by the Town.

12.4 **Appeals.** As of the effective date of this Ordinance, no appeal shall be heard except in accordance with the following.

12.4.1 **Appealable Decisions:** Only alleged errors in an order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance are appealable to the Board of Appeals and Adjustments. The decisions of the Town Board and the Board of Appeals and Adjustments are final and are not appealable to the Board of Appeals and Adjustments. Recommendations of the Planning Commission are not final decisions and are not appealable to the Board of Appeals and Adjustments.

12.4.2 **Notice of Appeal:** In order to bring an appeal, a person shall file a written notice of appeal with the Town Clerk within 15 days of the date of the order or decision being appealed together with the required fee. The notice of appeal must, at a minimum, contain all of the following information:

- (A) The name, mailing address, and phone number of the person making the appeal;
- (B) The name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the appeal relates;
- (C) Describe the specific order or decision being appealed, the date of the order or decision, and identify the person who issued the order or made the decision;
- (D) A detailed explanation of the grounds for the appeal; and
- (E) Identify the specific relief being sought by the appeal.

12.4.3 **Procedure:** Notices of appeals shall comply, and shall be processed in accordance, with the following:

12.4.3.1 **Town Clerk.** The Town Clerk shall review the notice of appeal to determine if it contains all the required information and is otherwise complete. If a notice of appeal is not complete, the order or decision to which it relates is not appealable, or if it was not filed in a timely manner, the Town Clerk shall reject the notice of appeal. The Town Clerk shall

provide a written notice of the rejection to the person that filed the appeal. The Town Clerk may consult the Board of Appeals and Adjustments and the Town Attorney as needed to make a determination as to whether a notice of appeal is complete, proper, and filed in a timely manner. The Town Clerk shall forward complete, proper, and timely notices of appeals to the Board of Appeals and Adjustments to conduct a hearing. The Town Clerk shall also provide a copy of the notice of appeal to the Planning Commission.

12.4.3.2 Notice. At least ten days before the date of the hearing, notice shall be published in the Town's official newspaper and mailed by first-class mail to the person bringing the appeal and to all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the appeal relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results. In scheduling the hearing, the Board of Appeals and Adjustments shall allow a reasonable time, not to exceed 60 days, for the Planning Commission to review and report on the notice of appeal.

12.4.3.3 Planning Commission. The Planning Commission may review and provide a report to the Board of Appeals and Adjustments on a notice of appeal. The Planning Commission is not authorized to conduct a hearing on the notice of appeal. If the Planning Commission develops a report it shall provide it to the Board of Appeals and Adjustments prior to the scheduled hearing.

12.4.3.4 Board of Appeals and Adjustments. The Board of Appeals and Adjustments shall conduct a public hearing on the notice of appeal. The appellant, or its authorized agent, is expected to attend the hearing to explain the appeal and to answer the Board of Appeals and Adjustments' questions. The Board of Appeals and Adjustments shall make the final decision regarding the matter being appealed. The Board of Appeals and Adjustments may reverse or affirm, wholly or partly, or modify the order or decision being appealed, and issue such orders, requirements, decisions, permits, or determinations, or provide such other relief as it deems appropriate. The Board of Appeals and Adjustments shall issue its decision in a written order which contains its findings. It shall provide a copy of its order to the appellant within 10 days of its issuance.

12.4.3.5 Judicial Review. Appeals from the final decisions of the Town Board or of the Board of Appeals and Adjustments may be brought as provided in Minnesota Statutes, section 462.361, provided such appeal is served on the Town and filed in District Court in Pope County within 30 days from the date of the decision being appealed.

12.5 **Fees.** This section sets out the general requirements for fees related to the administration of, and for zoning requests made pursuant to, this Ordinance. The amount of the fees shall be established by a fee schedule in a resolution or ordinance adopted by the Town Board.

12.5.1 **Application Fee.** Applicants shall be required to pay an application fee when submitting an application under this Ordinance. Application fees shall be in the amount determined by the Town Board and are intended to defray the administrative costs of processing requests. Application fees submitted as part of a complete application are not refundable, regardless of whether the application is approved, denied, or withdrawn;

12.5.2 **Escrow.** In order to defray the additional costs the Town may incur to process a request made under this Ordinance, applicants may also be required to reimburse the Town for all consulting costs it incurs related to the particular request. Consulting costs include, without limitation, all attorney, planner, and engineering fees incurred related to the request. An applicant may be required to escrow cash with the Town in the amount determined by the Town Board or Zoning Administrator from which the Town will reimburse itself for the consulting costs it incurs. The applicant remains responsible for all such costs and shall promptly escrow additional funds if the Town Board or Zoning Administrator determines the existing escrowed amount will not be sufficient to fully reimburse the Town for its costs. Failure to promptly provide additional funds or to otherwise fully reimburse the Town for its consulting cost shall be a sufficient basis on which to delay the processing of a request or to deny a request.

12.5.3 **Reimbursement in Full Required.** Upon the termination of the application, by an approval, denial, withdrawal, or any other means, all costs incurred by the Town shall be immediately payable by the applicant. If no escrow was required, or if the Town's costs exceed the escrowed amount, the Town will provide the applicant a written statement of the amount to be reimbursed. The stated amount shall be paid in full to the Town within 30 days from the date of the written statement. If the escrowed amount exceeds the Town's costs, the excess shall be refunded to the applicant. No permits shall be issued, no construction or development shall commence, and no use of the property pursuant to the zoning request shall be made until all fees and costs are paid in full. In the event that payment of costs is not made within a reasonable time after demand, the Town Board or Zoning Administrator may take such steps as are available to the Town under law to collect the unreimbursed amounts, including collection costs. The steps the Town may take to recover its costs include, but are not limited to, placing the amount on any property the person owns in Minnesota as a service charge pursuant to Minnesota Statutes, section 366.012, filing a lien upon the subject property or other property of the applicant pursuant to Minnesota Statutes, section 514.67, or taking such other action as may be deemed appropriate to obtain full reimbursement for the Town for all costs it incurs related to the application.

**ARTICLE XIII
PENALTIES AND ENFORCEMENT**

13.1 Enforcement and Penalties.

13.1.1 General Offense: Any person who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a maximum fine or maximum period of imprisonment, or both, as specified by Minnesota Statutes, section 609.03. A violation of this Ordinance shall include, but is not limited to, any of the following: failing, neglecting, or refusing to comply with the provisions of this Ordinance; violating any condition placed on a permit or variance issued by the Town; exceeding the scope of a permit; or knowingly making any false statements in any document required to be submitted under the provisions of this Ordinance. Each day that a violation continues shall constitute a separate offense. In the event of a violation or a threatened violation of this Ordinance, the Town Board, in addition to other remedies, may institute appropriate criminal and/or civil actions or proceedings to prevent, prosecute, restore, restrain, correct or abate such violations or threatened violations. A criminal prosecution for a violation shall not be a bar to a civil remedy.

13.1.2 Enforcement. The Town Board, Zoning Administrator, and Town Board's appointed representatives have the authority to enforce this Ordinance by issuing notices of violation, cease and desist orders, citations, and taking or instituting such other lawful actions as may be needed to enforce this Ordinance and to bring a property into compliance. A violation of this Ordinance can occur regardless of whether a permit is required for a regulated activity. If a cease and desist order or stop work order is issued to stop an activity, the activity may not be resumed until the reason for the work stoppage has been completely satisfied and the cease and desist order lifted.

13.1.3 Costs of Enforcement. The cost of enforcement may be added to any fines or other penalties imposed as provided in Minnesota Statutes, section 366.01, subdivision 10. The Town may also collect such other reasonable costs it incurs to enforce this Ordinance by certifying the amount to the County Auditor as a service charge pursuant to Minnesota Statutes, section 366.012 for collection together with the property taxes levied against any real property the person or entity subject to the enforcement action owns in the Town. The Town will provide the property owner written notice of its intent to certify the amount on or before September 15. The amounts so certified to the County shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes.

13.1.4 After the Fact Applications. Any application for a permit or variance required under this Ordinance that is submitted to the Town after the use was initiated or

the work has commenced shall be required to pay an after-the-fact application fee, which is a multiple of the permit or variance fee as indicated in the Town's current fee schedule.

This Ordinance shall be in effect as of the first day of publication after adoption.

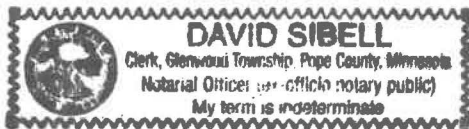
Adopted on the 28th day of January, 2021.

BY THE TOWN BOARD


Town Chairperson

STATE OF MINNESOTA)
) ss.
COUNTY OF POPE)

The foregoing was acknowledged before me this 28th day of January, 2021, by Matt Laubach, Town Chairperson of Glenwood Township, and the foregoing was executed on behalf of Glenwood Township as the free act and deed of the same.




Notary Public

NOTARY STAMP OR SEAL

THIS INSTRUMENT DRAFTED BY:
Kennedy & Graven, Chartered
700 Fifth Street Towers
150 South Fifth Street
Minneapolis, MN 55402
(612) 337-9300

