

**BROCKWAY TOWNSHIP
LAND USE AND ZONING ORDINANCE
NUMBER 5
Amended 2022 – 01.18**

THE BROCKWAY TOWNSHIP BOARD OF SUPERVISORS ORDAINS:

SECTION 1 PURPOSE, AUTHORITY AND JURISDICTION

1.1 Title

This Ordinance shall be known, cited, and referred to as the “Brockway Township Land Use and Zoning Ordinance”. When referred to herein, it shall be known as “this Ordinance”.

1.2 Statement of Purpose

This Ordinance is adopted for the purpose of:

- A. Protecting and promoting the public health, safety, welfare and morals.
- B. Promoting and providing for the orderly development of agricultural, residential, commercial, industrial, recreational and public areas and land uses.
- C. Preserving agricultural land and animal agriculture.
- D. Conserving natural and scenic areas of the Township.
- E. Conserving natural resources and open space.
- F. Providing official controls to implement the goals and policies included in the Brockway Township Comprehensive Plan and/or the Stearns County Comprehensive Plan.

1.3 Statutory Authorization

This Ordinance is adopted pursuant to the authorization and policies contained in *Minnesota Statutes, Chapter 366; or successor statutes and Minnesota Statutes, Chapter 462; or successor statutes*. In the event the provisions of Chapter 462 and Chapter 366 are in conflict or are inconsistent as applied to the terms of this Ordinance, the provisions of Chapter 462 shall prevail.

1.4 Jurisdiction

This Ordinance shall apply to all areas in Brockway Township, Minnesota:

- A. Except areas within the incorporated limits of any city, however organized, except as provided by law; and
- B. Except as otherwise provided by law.

1.5 Brockway Township Land Use and Zoning Ordinance and MOU amended.

The BROCKWAY TOWNSHIP LAND USE AND ZONING ORDINANCE NUMBER 4 dated April 9, 2019 with attached MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF STEARNS AND THE TOWN OF BROCKWAY regulating land use within Brockway Township, Stearns County, State of Minnesota is hereby amended.

SECTION 2 GENERAL PROVISIONS

2.1 Abrogation and Greater Restrictions

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.

2.2 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.

2.3 Interpretation

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

2.4 Compliance

No structure shall be erected, 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.

SECTION 3 DEFINITIONS

3.1 Adoption by Reference

That *Section 3 of Stearns County Ordinance Number 439; or successor ordinance*, is hereby adopted by reference except for clarification of the following:

1. Board or Town Board shall mean the Township Board of Supervisors and "Planning Commission" shall mean the Township Planning Commission, and
2. Add the following definitions:
 - **Cargo Containers.** A metal and/or steel storage and transport receptacle structure normally used for moving goods on ships, trains and trucks. The size may vary from eight feet wide by eight feet high with lengths ranging from twenty to forty feet long.

SECTION 4 ADMINISTRATION

4.1 Purpose

The following sections outline the major zoning procedures for implementation of the Zoning Ordinance.

4.2 Zoning Administrator

The Office of the Zoning Administrator is continued for which the Town Board may appoint such staff as it may deem proper. The term of office of the Zoning

Administrator shall be indefinite and shall terminate at the pleasure of the Town Board.

4.2.1 Duties. The Zoning Administrator shall:

- (a) Enforce and administer the provisions of this Ordinance.
- (b) Maintain records thereof.
- (c) Receive, and forward to the Township Planning Commission, applications for Subdivision plats [Preliminary and Final], and petitions for ordinance amendments, including rezoning and text amendments.
- (d) Maintain the township zoning map.
- (e) Conduct inspections to determine compliance with the provisions of this Ordinance.
- (f) Serve as an ex-officio member of the planning commission.
- (g) Such other matters and responsibilities as the Town Board may assign from time to time.
- (h) File for record with the Stearns County Recorder or Registrar of Titles all documents required to be filed by law.
- (i) Where and when required, send notifications of public hearings on Ordinances, Plan Amendments, and Plat notifications to the following agencies:
 - (1) Minnesota Department of Transportation
 - (2) Minnesota Pollution Control Agency
 - (3) Natural Resources Conservation
 - (4) Minnesota DNR
 - (5) Stearns County

4.3 Construction Site Permit Required

4.3.1 Scope. From and after the effective date of this Ordinance, it shall be unlawful to proceed with the construction, placement or enlargements of any building or structure without first obtaining a construction site permit.

4.3.2 Application. Requests for a construction site permit shall be filled on an official application form provided by Stearns County. Each application for a permit shall be accompanied by a site and floor plan drawn to scale showing the dimensions of the lot to be built upon, the size and location of all principal and accessory buildings and parking areas and such additional information deemed necessary for the proper review and enforcement of this Ordinance and any other applicable building codes.

4.3.3 Certification.

- a. For any application required by this Ordinance, there must be a certification by the applicant that there are no delinquent property taxes, special assessments, penalties, interest, and utility fees due on the parcel to which the application relates.
- b. Property taxes which are being paid under the provisions of a stipulation, order or confession of judgment, or which are being appealed as provided by law, are not considered delinquent for purposes of this subdivision if all

required payments that are due under the terms of the stipulation, order, confession of judgment, or appeal have been paid.

4.3.4 Issuance of Construction Site Permit. The Zoning Administrator, or designated Board member, shall sign the construction site permit only when the plans comply with this Ordinance and other applicable laws, regulations and ordinances.

4.3.5 Normal Maintenance. No construction site permit shall be required for normal maintenance and repairs so long as the footprint of the structure is not enlarged.

4.3.6 Permit Time Frame.

4.3.6.1 A CSP will be valid for a period of one year after which said Application must have completed the exterior of a permitted structure as authorized by the permit.

4.3.6.2 Where a construction site permit has been issued and the applicant has begun but failed to complete the work authorized by the permit within twelve (12) months from the date of permit issuance, said permit shall remain valid for one (1) additional year in order to complete construction..

4.3.7 Complete Construction Preferably Includes:

1. An example of complete construction is identified as the following:
 - a. The structure is completed with all commonly used and accepted exterior materials installed and finished.
 - b. Finished materials can include brick, rock, PVC trim, finished aluminum, steel siding or Louisiana Pacific siding or cement siding.
2. All landscaping is completed:
 - a. All concrete walks or pavers are installed if used
 - b. All outside concrete aprons installed
 - c. All piles of dirt are leveled or hauled away
 - d. All lawn areas are seeded, or have sod placed on them
 - e. All shrubbery, if used, are installed and all these areas are covered with appropriate landscape covers (i.e. bark, mulch or rock)
3. Driveways do not have to be paved.

4.4 Stormwater Management

4.4.1 Stormwater Management. Municipal Separate Storm Sewer System (MS4). A municipal separate storm sewer system (MS4) is a conveyance or system of conveyances (roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains) that is designed or used for collecting or conveying stormwater. For Brockway Township this primarily means the Township's ditches and culverts as well as management of stormwater ponds that are in the Township's care. It further means managing new construction in developments that are created in the Township.

4.4.2 Brockway Township Permit. Brockway Township requires all new development and redevelopment of one acre or more and according to the requirements from Ordinance #12, as revised November 12, 2018 to obtain a MS4 permit from the Township before any site work begins.

4.5 Fees

4.5.1 Base Fee To defray administrative costs of processing requests for site permits, conditional uses, interim uses, amendments, variances or appeals, a base fee per application shall be paid by all applicants in accordance with a Fee Ordinance Schedule, adopted by resolution of the Town Board.

4.5.2 Other Fees In order to defray any additional cost of processing applications (construction site permit, amendment, conditional use, interim use, variance, appeal) for developments, all applicants shall pay the total cost and/or consulting time spent exclusively in producing materials for the applicant's request, and all materials for said request. Fees that are established pursuant to *Section 4.4.2 of this Ordinance* shall be adopted by resolution of the Town Board.

- (a) "Materials" shall include but are not limited to maps, graphs, charts, drawings, developers' agreement, etc., and all printing or reproduction of same.
- (b) "Staff and/or consulting time" shall include any time spent in either researching for or actual production of materials, either by Township staff, Township legal, engineering, or planning consultants or the Township Attorney.
- (c) The hourly rate for "staff and/or consulting time" shall be established and made available to the applicant by the Zoning Administrator prior to the production of any materials and the applicant shall be given a reasonable estimate of project time and/or material costs.

4.6 Planning Commission

4.6.1 Establishment of Planning Commission. The Planning Commission, appointed the Brockway Town Board of Supervisors and originally established by Ordinance 2012-4 adopted on the 8th day of October 2012, and revised on the 13th day of October,

2015 and will consist of the three (3) elected Township Board of Supervisors, pursuant to Minnesota Statutes Chapter 462 and will have the following duties:

- (a) Conduct Public Hearings, after proper public notices in the official newspaper and individual notice by regular mail to any property owners within three-hundred fifty (350) feet and/or the nearest ten (10) adjoining landowners in question, whichever is greater. Such notices shall be given at least ten (10) calendar days before the hearing date, one of which will not be the date of the Hearing.
- (b) Preview preliminary and final plats and provide recommendations to the Brockway Township Board.
- (c) Periodically review the Zoning Ordinance and the Official Land Use Zoning Map and determine its role in shaping the growth of the community and to recommend necessary changes in these documents to guide growth and current land use towards the goals of the Comprehensive Plan and

amendments.

(d) Review and make recommendations to the Brockway Town Board on the following applications for:

- (1) Zoning Ordinance and/or any Amendment required
- (2) Changes in the Official Land Use Zoning Map
- (3) Changes in the Land Use Zoning Districts
- (4) Update the Comprehensive Plan as needed

4.6.2 Conflict of Interest. Any planning commission member who has a conflict of interest on any issue before the commission shall not be allowed to participate as a commission member on that issue. Any question of whether the particular issue involves a conflict of interest sufficient to disqualify a commission member from acting thereon, shall be decided by majority vote of all commission members present except the member who is being challenged.

4.7 Subsurface Sewage Treatment System Permit

In areas without public sewer facilities, no construction site permit, conditional use permit, interim use permit or provisional use permit for any use requiring on-site sewage treatment shall be issued until a subsurface sewage treatment system permit has first been issued by Stearns County.

4.8 County Driveway Access Permit

Accesses onto County roads shall require an access permit from the County Public Works Department. This permit shall be issued prior to the issuance of any construction site permit, conditional use permit, interim use permit or provisional use permit when the proposed use involves the installation of a new or additional access onto a County Road. The Public Works Director shall determine the appropriate location, size and design of such accesses and may limit the number of accesses in the interest of public safety and efficient traffic flow.

4.9 Township Driveway Access

No person, firm, corporation or other entity shall construct a new, relocated, modify or change access to an approach to a Township road for the purpose of gaining access to property without first securing a permit from the Township Zoning Administrator, Board of Supervisors, or their designated representative. Location of driveway access to the property is required to be approved through a final inspection by the township Road Authority or their designated representative.

The side slope shall not be steeper than 4:1 and the maximum top shall be no wider than 20 feet in the R1 and R5 zoning districts for standard driveways. Culverts shall be adequate to handle the anticipated water flow and in no event, shall they be less than fifteen (15) inches in diameter. Steel culverts shall be required. The requirements in all other zoning districts shall be determined by the Town Board of Supervisors on a case-by-case basis.

Regarding Stearns County Ordinance 439, Section 8 General Rules of Zoning District Application, 8.3, 8.3.1 Application of Standards regarding the Unclassified Private Road Setback in each Land Use District will be **deferred** to Stearns County.

4.10 Compliance

4.10.1 Construction

No structure shall be erected, moved or altered unless in conformity with the standards set forth in this Ordinance.

4.10.2 Use

No structure or land shall be used or occupied for any purpose or in any manner that is not in conformity with the standards set forth in this Ordinance.

4.10.3 Compliance with Approved Plans

Construction and use shall be in accordance with the application, plans, permit, and any applicable variance. Permits, conditional use permits, interim use permits, provisional use permits and certificates of compliance 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.

4.11 Registration of Provisional Uses

Registration shall be required for any use listed as a provisional use in the primary zoning districts in the Stearns County Ordinance 439, as amended from time to time. A copy of the registration shall be forwarded to Brockway Township within 30 days of the registration.

4.12 Intergovernmental Communication

To facilitate the joint Township/County permitting process, the following, when issued or granted by Stearns County Environmental Services, shall be submitted to Brockway Township Zoning Offices:

- (a) A copy of all construction site permits.
- (b) A copy of all interim use permits.
- (c) A copy of all conditional use permits.
- (d) A copy of all variances.
- (e) A copy of all off premise sign permits.
- (f) A copy of all amendments to the text of this Ordinance.
- (g) A copy of all public hearing notices regarding variances, conditional use permits and interim uses a minimum of seven (7) days prior to the public hearing.

SECTION 5 NONCONFORMITIES

That *Section 5 of Stearns County Ordinance Number 439, or successor Ordinance*, is hereby adopted by reference.

SECTION 6 PERFORMANCE STANDARDS

That *Section 6 of Stearns County Ordinance Number 439; or successor Ordinance*, is hereby adopted by reference except for the following:

6.4 Adult Uses (Sexually Oriented Uses)

Section 6.4.2 A is amended to read as follows:

6.4.2 Adult Uses- Principal

A. Performance Standards

Principal adult uses shall comply with the following standards:

- (1) Any Adult Uses-Principal shall be located at least three thousand (3,000) radial feet, as measured in a straight line from the closest point of the property line of the building upon which the Adult Use-Principal is located, to the property line of:
 - (a) Residentially zoned property and/or residential dwelling unit(s);
 - (b) A licensed day care center;
 - (c) A public or private education facility classified as an elementary, middle school, junior high, senior high or home school;
 - (d) A public library;
 - (e) A public or private park;
 - (f) Another Adult Use-Principal; or
 - (g) An on-sale liquor establishment.

6.51 Solid Waste Composting Facility

Section 6.51 is hereby repealed.

6.53 Solid Waste Disposal Facilities and Transfer Stations.

Section 6.53.1 is hereby repealed

6.9 Attached Single Family Residential Dwellings

Section 6.9.1 D. is amended to read as follows:

- D. On-site sewage treatment systems shall be sized to accommodate each unit within a building with a single subsurface sewage treatment system. Additionally, each building shall be provided with an additional subsurface sewage treatment system area which shall be retained in a natural and undisturbed condition. Where attached single-family dwellings or their subsurface sewage treatment system area(s) are located within areas considered highly susceptible to groundwater contamination, the sewage treatment system shall require the use of a subsurface sewage treatment system registered by the Minnesota Pollution Control Agency (MPCA) as achieving a Total Nitrogen level of 20 mg/L or less and meeting all

permitting requirements of *Stearns County Ordinance Number 422; or successor ordinances.*

NOTE: In all land use districts where cargo containers are allowed, the numbers and letters must be painted **out** with a solid color.

SECTION 7 GENERAL DEVELOPMENT STANDARDS

That *Section 7 of Stearns County Ordinance Number 439; or successor Ordinance,* is hereby adopted by reference except for the following:

7.4 Cluster Development Standards

Section 7.4.3 is hereby amended to read as follows:

Cluster developments in Brockway Township are not eligible for a density bonus.

7.5 Conservation Design Overlay, Agricultural

Section 7.5 is hereby repealed.

7.6 Conservation Design Overlay, Natural Resources

Section 7.6 is hereby repealed.

7.33 Are hereby added to read as follows:

7.33 Subdivisions/Plats

- A. In the R-1 zoning districts, any subdivision or plat created according to Stearns County Subdivision Ordinance #230 or successor ordinance shall only be approved with a condition that any lot created by the subdivision or plat that is:

1) less than two (2) acres in size; and

2) where a subsurface sewage treatment system will be located in an area designated as being highly susceptible to groundwater contamination

shall require the installation and maintenance of a subsurface sewage treatment system registered by the Minnesota Pollution Control Agency (MPCA) as achieving a Total Nitrogen (TN) level of 20 mg/L or less and meeting all permitting requirements of *Stearns County Ordinance Number 422; or successor ordinances.*

SECTION 8 GENERAL ZONING DISTRICT RULES OF APPLICATION

8.1 Establishment of Zoning Districts

The zoning districts shall apply as designated on the Zoning Map or as defined within this Ordinance. All land under the jurisdiction of this Ordinance shall be designated as lying within one, and only one, primary zoning district. In addition, one or more overlay districts may apply.

A. PRIMARY DISTRICTS

- A-160 Agricultural District A-160
- A-80 Agricultural District A-80
- A-40 Agricultural District A-40
- T-20 Transition District T-20(closed)
- R-20 Residential District R-20(closed)
- R-10 Residential District R-10
- R-5 Residential District R-5
- RT Rural Townsite
- R-1 Residential District R-1
- C Commercial District
- I Limited Industrial District
- EE Educational/Ecclesiastical District
- SR Scenic River District
- RMH Residential Manufactured Home District
- UE Urban Expansion District

B. OVERLAY DISTRICTS

- CD Conservation Design
- AP Airport

8.2 Official Zoning Map

The locations and boundaries of the primary districts established by this Ordinance are set forth on the zoning maps which are hereby incorporated by reference as though a part of this Ordinance. It shall be the responsibility of the County to maintain and update the zoning maps and any amendments thereto.

8.3 District Regulations

8.3.1 Application of Standards

Unless specified otherwise in this Ordinance, when one or more zoning district standards are in conflict, then the more restrictive standard shall apply.

8.3.2 Appeal of District Boundary

Appeals from any determination of the exact location of district boundary lines shall be heard by the Stearns County Board of Adjustment.

8.3.3 Closed Districts

No request for rezoning into closed districts shall be allowed. The R-20 and T-20 are closed districts.

8.3.4 Prohibited Uses

Whenever, in any zoning district, a use is neither specifically permitted nor prohibited, the use shall be prohibited.

8.3.5 Zoning Upon Detachment

Any tract of land that is part of a statutory or charter city shall be zoned A-40 District if said tract of land is detached and becomes part of an adjoining township at any time on or after the effective date of this Ordinance.

SECTION 9 PRIMARY DISTRICT PROVISIONS

That *Section 9 of Stearns County Ordinance Number 439; or successor ordinance*, is hereby adopted by reference except for the following.

9.9 Residential District R-1 (R-1 District)

That Section 9.9.8 B(1) is hereby added to read as follows:

The minimum lot size requirement shall be one acre.

All Other Land Use Districts. In all other land use districts, the minimum lot size requirements will be 2.5 acres.

SECTION 10 OVERLAY DISTRICT STANDARDS

10.3 Conservation Design Overlay District

That Section 10.3, Conservation Design Overlay District of Stearns County Ordinance Number 439, or successor Ordinance is hereby adopted by reference.

10.4 Airport Overlay District

That Section 10.4, Airport Overlay District of Stearns County Ordinance Number 439, or successor Ordinance is hereby adopted by reference.

SECTION 11 TRANSFER OF DEVELOPMENT RIGHTS PROGRAM

That *Section 11 of Stearns County Ordinance Number 439 or successor Ordinance* is hereby adopted by reference with the following amended language: The transfer of development rights, if allowed by the County, are prohibited from being transferred out of Brockway Township. Development right transfers into and within the Township shall be approved by the Town Board.

SECTION 12 ENFORCEMENT

12.1 Any person, firm or corporation who violates any of the provisions of this Ordinance, or who fails, neglects or refuses to comply with the provisions of this Ordinance (including violations of conditions and safeguards established in connection with the granting of variances and conditional and interim use permits or failures to comply with restoration orders), or who knowingly makes any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a

misdemeanor and upon conviction thereof, shall be punished by a fine not to exceed \$1,000 or by imprisonment not to exceed 90 days or both. Each day that a violation continues shall constitute a separate offense.

12.2 In the event of a violation or a threatened violation of this Ordinance, the Board, in addition to other remedies, may institute appropriate civil actions or proceedings to prevent, prosecute, restore, restrain, correct or abate such violations or threatened violations.

SECTION 13 FEES

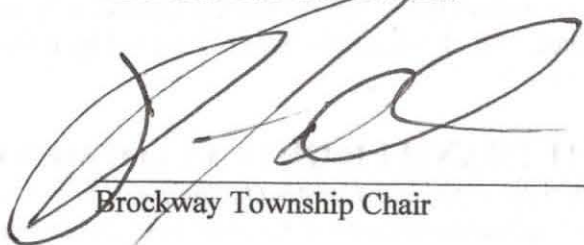
To defray the administrative costs of processing requests of this Ordinance, a fee not exceeding administrative costs shall be paid by the applicant. Such fees shall be determined by adoption of a Fee Schedule Ordinance by the Brockway Township Board of Supervisors.

SECTION 14 EFFECTIVE DATE

This Ordinance shall be in full force and effect upon publication.

PASSED BY THE BROCKWAY TOWNSHIP BOARD OF SUPERVISORS THIS 21ST DAY OF MARCH 2022.

BROCKWAY TOWNSHIP



Brockway Township Chair

ATTEST:

Drafted by:
Margaret Starvy
43710 85th Ave.
Rice MN 56367



Brockway Township Clerk

