

# ***KROSCHEL TOWN ZONING ORDINANCE***

Adopted June 5, 2007

# KROSCHEL TOWN ZONING ORDINANCE

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## ZONING ORDINANCE FOR THE TOWN OF KROSCHER, MINNESOTA

The Town Board of the Town of Kroschel Ordains: An ordinance regulating the use of land; the location, size and use of buildings and structures; and the arrangement of buildings and structures on lots in the Town of Kroschel, Kanabec County, Minnesota, pursuant to the authority granted by Minnesota Statutes Section 462.357.

### SECTION 1. TITLE AND APPLICATION

- Subd. 1. Title: This Ordinance shall be known as the "Zoning Ordinance of the Town of Kroschel, Kanabec County, Minnesota," except as referred to herein, where it shall be known as "this Ordinance."
- Subd. 2. Repeal and Replacement of Prior Zoning Ordinance: Any zoning ordinance existing at the time of adoption of this zoning ordinance, together with all amendments and supplements thereto, and all other ordinances promulgated by the Township of Kroschel which are inconsistent with the provisions of this ordinance are, to the extent of such inconsistency and no further, hereby repealed.
- Subd. 3. Intent and Purpose: The intent of this Ordinance is to protect the public health, safety and general welfare of the Town and its people through the establishment of minimum regulations governing land development and use. This Ordinance shall divide the Town into use districts and establish regulations in regard to location, erection, construction, reconstruction, alteration and use of structures and land. Such regulations are established to provide convenience of access to property; to prevent congestion in the public right-of-way; to prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards and density of population; to provide for compatibility of different land uses; to provide administration of this ordinance; to provide for amendments; to prescribe penalties for violation of such regulations; to define powers and duties of the Town staff, the Board of Adjustment and Appeals, the Planning Commission, and the Town's Board in relation to the Zoning Ordinance.
- Subd. 3. Relation to Comprehensive Land Use Plan. It is the policy of the Town of Kroschel that the enforcement, amendment, and administration of this Ordinance be accomplished with due consideration of the policies and recommendations contained in the Town's Comprehensive Land Use Plan.
- Subd. 4. Standard Requirement: Where the conditions imposed by any provisions of this Ordinance are either more or less restrictive than comparable conditions imposed by other ordinances, rules or regulations of the Town, County, State, or Federal Government, the ordinance, rule or regulation which imposes the more restrictive condition standard or requirements shall prevail. In the event of any conflict between this Ordinance with any private restrictions, protections and

covenants, the provisions of this Ordinance shall apply.

- Subd. 5. Minimum Requirements: In their interpretation and application, the provisions of this Ordinance shall be held to the minimum requirements for the promotion of the public health, safety and welfare.
- Subd. 6. Conformity with Provisions: No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Ordinance.
- Subd. 7. Building Permits: Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Ordinance.
- Subd. 8. Conditional Uses, Variances, Amendments, Appeals: Nothing within this Ordinance shall be construed so to deny any property owner his right to apply for a conditional use permit, variance, amendment, or appeal.
- Subd. 9. Uses Not Provided for Within Zoning Districts: Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such case the Town Board or Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable, what zoning district would be most appropriate, and the determination as to conditions and standards relating to development of the use. The Town Board, Planning Commission, or property owner shall, if appropriate, initiate an amendment to the zoning Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the Town.
- Subd. 10. Separability: It is hereby declared to be the intention of the Town of Kroschel that the several provisions of this Ordinance are separable in accordance with the following:
- A. If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provision of this Ordinance not specifically included in said judgment.
  - B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of the 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.

**SECTION 2. DEFINITION OF TERMS:** The following words and terms wherever they occur in this Ordinance, shall be interpreted as herein defined.

- Subd. 1. Accessory Building or Use: A subordinate building, structure or use which is

located on the same lot where the main building or use is situated and is reasonably necessary and incidental to the conduct of the primary or principal use of such building or main use.

- Subd. 2. Agriculture Uses: Those uses commonly associated with the growing of produce on farms. These include: field crop farming; pasture for hay; fruit growing; tree, plant, shrub or flower nursery without building; truck gardening; roadside stand for sale in season; and livestock raising and feeding.
- Subd. 3. Automobile Wrecking or Junk Yard: Any place where two (2) or more vehicles not in running condition and/or not licensed, or parts thereof are stored in the open and are not being restored to operation; or any land, building or structure used for wrecking or storing of such motor vehicles or parts thereof; and including any commercial salvaging and scavenging of any other goods, articles or merchandise.
- Subd. 4. Basement: A portion of a building located partially underground but having less than one-half ( $\frac{1}{2}$ ) its floor to ceiling height below the average land grade.
- Subd. 5. Buildable Area: The portion of a lot remaining after required yards have been provided.
- Subd. 6. Building: Any structure used or intended for supporting or sheltering any use or occupancy.
- Subd. 7. Building Height: A distance to be measured from the mean ground level to the tope of a flat roof, to the mean distance of the highest gable on a pitched or hip roof, to the deckline of a mansard roof, to the uppermost point on other roof types.
- Subd. 8. Building Line: That line measured across the width of the lot at the point where the main structure is placed in accordance with setback provisions.
- Subd. 9. Building Setback: The minimum horizontal distance between the building and specified lot line as prescribed in this Ordinance.
- Subd. 10. Campground: An area accessible by vehicle and containing campsites or camping spurs for tent and trailer camping.
- Subd. 11. Cellar: That portion of a building having more than one-half ( $\frac{1}{2}$ ) of the floor to ceiling height below the average land grade.
- Subd. 12. Church: A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

- Subd. 13. Commercial Recreation: Privately owned facilities such as a bowling alley, cart track, golf course, pool hall, vehicle racing, riding stables, dance hall, skating, theatre, firearms range, boat rental, amusement rides, campgrounds, deer park, and similar uses.
- Subd. 14. Commercial Uses: Any establishment, occupation, employment, or enterprise where merchandise is exhibited or sold, or where services are offered for compensation.
- Subd. 15. Comprehensive Plan. The comprehensive development plan prepared and adopted by the Town, indicating the general locations recommended for major land uses, roads, parks, public buildings, and other public improvement.
- Subd. 16. Conditional Use: A use, which because of special problems of control requires reasonable, but special, and extra-ordinary limitations peculiar to the use for the protection of the public's welfare and the integrity of the Town's comprehensive plan.
- Subd. 17. Conditional Use Permit: A permit issued by the Town Board in accordance with procedures specified in this Ordinance, as well as its compatibility with the Town's comprehensive plan, as a flexibility device to enable the Town Board to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.
- Subd. 18. District: A section or sections of the Town for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted therein.
- Subd. 19. Dwelling: A building or portion thereof, designated exclusively for residential occupancy, including one-family, two-family and multiple family dwellings, seasonal dwellings, manufactured housing, but not including hotels, motels, and boarding houses.
- Subd. 20. Dwelling, Multiple (Apartment): A building designed with three (3) or more dwelling units exclusively for occupancy by three (3) or more families living independently of each other but sharing hallways and main entrances and exits.
- Subd. 21. Dwelling, Single Family: A detached dwelling unit designed for occupancy of one (1) family.
- Subd. 22. Dwelling, Two Family: A dwelling designed exclusively for occupancy by two (2) families living independently of each other.
- Subd. 23. Dwelling Unit. A residential building or portion thereof intended for occupancy by a family but not including hotels, motels, nursing homes,

boarding or rooming houses.

- Subd. 24. Earth Sheltered Building: Buildings constructed so that more than fifty percent (50%) of the exterior surface area of the buildings, excluding garages and other accessory buildings, is covered with earth. Partially completed buildings shall not be considered earth sheltered.
- Subd. 25. Essential Services: Underground or overhead gas, electrical, steam or water distribution systems; collection, communication, supply or disposal system including poles, wires, mains, drains, sewer, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants or other similar equipment and accessories in conjunction therewith; but not including buildings or transmission services.
- Subd. 26. Family: An individual or group of two or more persons related by blood or marriage or a group of not more than five unrelated persons living together on the premises or in a single housekeeping unit.
- Subd. 27. Farm: A tract of land ten (10) or more acres which is principally used for commercial agriculture, all of which is owned and operated by a single family, farm corporation, individual or corporation.
- Subd. 28. Farm Dwelling. A single family dwelling located on a farm which is used or intended for use by the farm's owner, a relative of the owner, or a person employed thereof.
- Subd. 29. Fence: A barrier forming a boundary to, or enclosing some area.
- Subd. 30. Floor Area: The sum of the gross horizontal area of the several floors of the building, measured from the exterior faces of the exterior walls.
- Subd. 31. Forestry: The management, including logging, of a forest, woodland, or plantation, and related research and educational activities, including the construction, alteration or maintenance of woodroads, skidroads, landings, and fences.
- Subd. 32. Garage, Private: An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families resident upon the premises, and in which no business service or industry is carried on; provided that not more than one-half ( $\frac{1}{2}$ ) of the space may be rented for the private vehicles of persons not resident on the premises, except that all the space in a garage of one (1) or two (2) car capacity may be so rented.
- Subd. 33. Grade (Adjacent Ground Elevation): The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between



the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

- Subd. 34. Grading: Changing the natural or existing topography of land.
- Subd. 35. Greenbelt: A planned barrio consisting of dense vegetation used for the purpose of separation and screening of land uses.
- Subd. 36. Home Occupation: Any occupation or profession carried on by a member(s) of the family residing on the premises, provided that the use is clearly incidental and secondary to the main use of the premises for dwelling purposes and does not change the character thereof., or have any exterior evidence of such secondary use.
- Subd. 37. Industrial Use: Any establishment, occupation, employment, or enterprise where the manufacturing, storage, or warehousing of products and materials occur.
- Subd. 38. Lot, Of Record: A parcel of land, whether subdivided or otherwise legally described of record as of the effective date of this Ordinance, or approved by the Town as a lot subsequent to such date and which is occupied by or intended for occupancy by one (1) principal building or principal use together with any accessory buildings and such open spaces as required by this Ordinance and having its principal frontage on a street, or a proposed street approved by the Board.
- Subd. 39. Lot: Land occupied or to be occupied by one (1) principal building or use and its accessory buildings, together with such open spaces as are required under the provisions of this zoning ordinance, having not less than the minimum area in the district in which such lot is situated and having its principal frontage on a street, or a proposed street approved by the Board.
- Subd. 40. Lot Area: The area of a horizontal plane within the lot lines.
- Subd. 41. Lot, Corner: A lot situated at the junction of and abutting on two (2) or more intersecting roads; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty-five (135) degrees or less.
- Subd. 42. Lot, Frontage: The front of a lot shall be that boundary abutting a public right-of-way.
- Subd. 43. Lot, Line: A property boundary line of any lot held in single or separated ownership, except that where any portion of the lot extends into the abutting road, the lot line shall be deemed to be the road right-of-way.
- Subd. 44. Lot, Through: A lot fronting on two parallel streets.

- Subd. 45. Lot Width: The shortest horizontal distance between the side lot lines measured at the right angles at the building line and front lot line.
- Subd. 46. Manufacturing: All uses which include the compounding, processing, packaging, treatment, or assembly of products and materials.
- Subd. 47. Mining Operation: The removal from the land stone, sand and gravel, coal, salt, iron, copper, nickel, granite, petroleum products or other materials for commercial, industrial, or governmental purposes.
- Subd. 48. Natural Drainage System: All land surface areas which by nature of their contour configuration, collect, store, and channel surface water run-off.
- Subd. 49. Non-conforming Structure or Use: Any structure or use which on the effective date of this Ordinance does not, even though lawfully established, conform to the applicable conditions if the structure or use was to be erected under the guidance of this Ordinance.
- Subd. 50. Off-Road Loading Space: A space accessible from a public road, in a building or on the lot, for the use of a truck while loading or unloading merchandise or materials. Such space shall be of such size as to accommodate one (1) truck of the type typically used in the particular business.
- Subd. 51. Parking Space: An area of not less than nine (9) feet in width and nineteen (19) feet in length, enclosed in the main building, in an accessory building, or unenclosed, sufficient in size to store one (1) automobile which has adequate access to a public road and permitting satisfactory ingress and egress of an automobile.
- Subd. 52. Permitted Use: A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such districts.
- Subd. 53. Person: An individual, firm, partnership, association, corporation, or organization of any kind.
- Subd. 54. Planning Commission: The planning agency of the Town, designated by the Town Board of Supervisors.
- Subd. 55. Principal Use: The primary or main use of land or buildings as distinguished from subordinate, incidental or accessory uses.
- Subd. 56. Public Uses: Uses owned or operated by a municipality, school districts, Towns, county, state or other governmental units.
- Subd. 57. Public Waters: Any waters of the State which serve a beneficial public

purpose, as defined in Minnesota Statutes 1974, Section 105.37, Subdivision 6. A body of water created by a private user where there was no previous shoreland, as defined herein, for a designated private use authorized by the Commissioner shall be exempt from the provisions of these regulations.

- Subd. 58. Setback: The minimum horizontal distance between a structure or sanitary facility and a road or highway right-of-way or property lot line, or between a structure or sanitary facility and the ordinary high water mark.
- Subd. 59. Sewage Disposal System: Any system for the collection, treatment and dispersion of sewage, including but not limited to septic tanks, soil absorption systems, and drain field.
- Subd. 60. Shoreland: Land located within the following distances from public water: (i) 1,000 feet from the ordinary high water mark of a lake, pond, or flowage; and (ii) 300 feet from a river or stream; or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.
- Subd. 61. Slope: The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.
- Subd. 62. Structure: Anything which is built, constructed or erected on the ground or attached to the ground; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character, including decks and signs.
- Subd. 63. Substandard Use: Any use existing prior to the date of the ordinance which is permitted within the applicable zoning district but does not meet the minimum lot area, frontage, setbacks, water frontage length, or other dimensional standards of this Ordinance.
- Subd. 64. Use: The purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this Ordinance.
- Subd. 65. Variance: The waiving action of the literal provisions of the zoning ordinance in instances where their strict enforcement would cause undue hardship because of physical circumstances unique to the individual property under consideration.
- Subd. 66. Wetlands: An area where water stands near, at, or above the soil surface

during a significant portion of most years, saturating the soil and supporting a predominantly aquatic form of vegetation and which may have the following characteristics.

- A. Vegetation belonging to the marsh (emergent aquatic) bog, fen, sedge meadow, shrubland southern lowland forest (lowland hardwood), and northern lowland forest (conifer swamp) communities. (These communities correspond roughly to wetland types 1, 2, 3, 4, 5, 6, 7 and 8 described by the United States Fish and Wildlife Service, Circular 39, "Wetlands of the U.S.", 1956).
- B. Mineral soils with grey horizons or organic solids belonging to the Histosol order (peat and muck).
- C. Soils which are water logged or covered with water at least three months of the year. Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands, and properly, may be shallow water bodies, the waters of which are stagnant or actuated by very feeble currents, and may at times be sufficiently dry to permit tillage but would require drainage to be made arable. The edge of a wetland is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

- Subd. 67. Yard: An open space on the lot which does not contain structures. A yard extends along a lot line at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located.
- Subd. 68. Yard, Front Setback: A yard extending across the front of the lot between the side lot lines and lying between the front line of the lot and the nearest line of the building.
- Subd. 69. Yard, Rear Setback: A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.
- Subd. 70. Yard, Side Setback: A yard between the side line of the lot and the nearest line of the building and extending from the front yard of the lot to the rear line.
- Subd. 71. Zoning Administrator: A person appointed by the Town Board to enforce the zoning ordinance.
- Subd. 72. Zoning Map: The maps or map incorporated into this Ordinance as part thereof, and as amended, designating zoning districts.

### **SECTION 3. ZONING DISTRICT PROVISIONS**

- Subd. 1. Establishment of Districts: The following zoning districts are hereby

established within the Town of Kroschel.

A-O,     Agricultural/Open Space District  
S,        Shorelands District

Subd. 2.     Map: The location and boundaries of the districts established by this Ordinance are hereby set forth on the zoning map entitled "Zoning Map of the Town of Kroschel", hereinafter referred to as the "Zoning Map", a copy of which is on file with the Town Clerk. Said maps and all of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this Ordinance by reference.

Subd. 3.     Detachment: In the event of changes in the Town boundaries removing territory from the Town or adding territory to the Town, district boundaries shall be construed as moving with Town boundaries.

Subd. 4.     Zoning District Boundaries

- A.     Boundaries indicated as approximately following the center lines of streets, highways, alleys, or railroad lines shall be construed to follow such center lines.
- B.     Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.
- C.     Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, lakes or other bodies of water shall be construed to follow such center lines.
- D.     Boundaries indicated as approximately following the Town boundaries shall be construed as following such boundaries.
- E.     Where a district boundary line divides a lot which was in a single ownership at the time of passage of this Ordinance, the extension of the regulations for either portion of the lot may be interpreted by the Zoning Administrator upon request of the owner.
- F.     The exact location of all district boundaries shall be interpreted by the Zoning Administrator, subject to appeal as provided in Section 11 of this Ordinance.

Subd. 5.     District Regulations: The regulations of this Ordinance within each district shall be minimum regulations, and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

- A. No building, structure, or land shall hereafter be used or occupied, and no building structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
- B. No building or other structure shall hereafter be erected or altered to exceed the height or bulk, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, and to have narrower or smaller than herein required, or in any other manner contrary to the provision of this Ordinance.
- C. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

#### **SECTION 4. AGRICULTURAL/OPEN SPACE DISTRICT (A-O)**

Subd. 1. Purpose: The (A-O) Agricultural/Open Space District is intended to provide areas to be utilized and retained in agricultural and/or open space uses, preserve the local agricultural economy, protect private agricultural investments, promote orderly development by limiting scattered non-farm uses, and secure economy in government expenditures for public facilities and services.

Subd. 2. Permitted Uses: The following uses are permitted:

- A. Farm buildings which are used for purposes related to the operation of the farm.
- B. Farm production which shall include the raising of crops and animals for sale, profit, or pleasure.
- C. Greenhouse or nursery.
- D. Forestry.
- E. Wildlife areas, forest preserves, public parks owned or operated by a government agency or nonprofit organization, and other open space uses.
- F. Temporary or seasonal roadside stands for sale of agricultural products.
- G. Single family dwellings subject to the following provisions:
  - 1. Dwelling units shall not be permitted in areas classified as wetlands,

floodplain, peat and muck areas, areas of poor drainage, and areas where the water table depth is less than four (4) feet.

2. Dwelling units which would require a new public dedicated road shall not be permitted.
3. All dwelling units must conform the health and sanitation regulations of Kanabec County.

#### H. Essential Services

Subd. 3. Conditional Uses: The following uses may be permitted upon the issuance of a conditional use permit:

- A. Commercial uses.
- B. Industrial uses.
- C. Commercial recreational parks, campgrounds, and facilities.
- D. Churches
- E. Organized group camps.
- F. Extraction of sand gravel, minerals, or rock.
- G. Two-family and multi-family residences.

Subd. 4. Accessory Uses: The following uses are permitted accessory uses:

- A. Any structure or use which is incidental to the permitted principal use including garages, fencing, landscaping, and sheds.
- B. Recreational facilities which serve the residents of the principal use.
- C. Operation and storage of vehicles, equipment and machinery which is incidental to the permitted principal use.
- D. Home occupations consistent with Section 6 of this Ordinance.

Subd. 5. Lot Area Requirements

- A. Lot Area: A lot area of not less than twenty (20) acres for each dwelling unit is required, of which an area of at least one (1) acre is determined to be buildable.
- B. Lot Width: A lot width of not less than three hundred (300) feet fronting

a public road and three hundred (300) feet at the building line is required for each dwelling unit, except in those cases of interior quarter of quarter sections of land, the public road frontage requirement may be waived.

- C. Lot Depth. A lot depth of not less than three hundred (300) feet for each dwelling unit is required.

**Subd. 6. Front, Side, and Rear Yard Setback Requirements**

- A. Front Yard Setback: A front yard of not less than one hundred (100) feet is required.
- B. Side Yard Setback: Two side yards are required, each having a width of not less than fifty (50) feet.
- C. Rear Yard Setback: A rear yard of not less than fifty (50) feet is required.

**Subd. 7. Building Height Restrictions.**

- A. Non-agricultural structures shall not exceed thirty-five (35) feet in height.
- B. Agricultural structures are exempt from building height regulations.

**SECTION 5. (S) SHORELAND DISTRICT**

- Subd. 1. Purpose. The (S) Shoreland District is intended to designate suitable land use districts for each public water; regulate the placement of sanitary and waste disposal facilities on lots; regulate the area of a lot and length of water frontage suitable for a building site; and regulate alterations of the natural vegetation and topography.
- Subd. 2. All requirements of the Kanabec County Ordinance for the Management of Shoreland Areas, Ordinance Number 5, shall apply to the Shoreland District of Kroschel Town. In cases of comparable conditions imposed by Kanabec County Ordinance Number 5 and this Ordinance, the more restrictive condition shall apply including the requirements of Section 4 of this Ordinance.

**SECTION 6. GENERAL PROVISIONS**

- Subd. 1. Purpose: The purpose of this section is to establish general development standards to assure compatible land uses, to prevent blight and deterioration, and to enhance the health, safety and general welfare of the Town.



Subd. 2. Building Restrictions

- A. No cellar, basement, garage, tent or accessory building shall at any time be used as an independent residence or dwelling unit, temporarily or permanently except allowed as a conditional use as set forth and regulated by Section 10 of this Ordinance.
- B. All buildings shall be so placed so that they will not obstruct future roads which may be constructed by the Town in conformity with existing roads and accordance to the system and standards employed by the Town.
- C. Not more than one (1) principal building shall be located on a lot. The words "principal building" shall be given their common, ordinary meaning; in case of doubt or on any question or interpretation, the decision of the Zoning Administrator shall be final, subject to the right of appeal to the Board of Adjustment and Appeals.
- D. Temporary Dwellings: Temporary dwellings including travel trailers, campers, tents, recreational vehicles, and other vehicles or structures which are adaptable for living and may be reasonably transported, may be used for dwelling purposes for a period not to exceed thirty (30) consecutive days or more than thirty (30) days of a sixty (60) day period. Only one temporary dwelling may be placed on a parcel or lot.
- E. Foundation Requirements. All dwellings, including manufactured homes, must be placed on frost free footings, foundations, or pillars. A six (6) inch reinforced concrete slab with vapor barrier is required for manufactured homes.
- F. Manufactured Homes. Manufactured homes manufactured prior to June 14, 1976 and not in compliance with the Federal Manufactured Housing Construction and Safety Act as amended shall not be permitted to be moved into the Township.

Subd. 3. Sanitary Provisions. All sewage and water systems hereafter constructed or altered shall conform to the requirements of the Kanabec County Ordinance Number 6, regulating sewage disposal within the County.

Subd. 4. Home Occupations. Home occupation uses are subject to the following requirements.

- A. The occupation must be carried on by a member of the family residing on the premise, the use must be clearly incidental and secondary to the principal use as a residence, doe not change the character of the premise, or have any exterior evidence of the home occupation.
- B. When deemed appropriate, the Zoning Administrator may bring the

home occupation to the attention of the Planning Commission who may hold public hearings, request information, or require conditions deemed necessary to bring the home occupation in compliance with the standards of this Ordinance.

Subd. 5. Land Reclamation: Under this Ordinance grading and land reclamation is the removal or deposition of materials so as to alter the grade. All grading and land reclamation shall be controlled under the provisions of the Zoning ordinance and shall meet the following minimum standards:

- A. The smallest amount of bare ground is exposed for as short a time as feasible.
- B. Temporary ground cover is used until permanent ground cover, such as sod, is planted.
- C. Methods to prevent erosion and trap sediment are employed.
- D. Fill is stabilized to accepted engineering standards.
- E. Final slopes for cut slopes should be a maximum of 1:1, or 100%; fill slope 3:1, or 30%, and grade or construction slope 5:1, or 20%.

Subd. 6. Commercial Mining. The extraction of sand, gravel, or other material from the land in the total amount of four hundred (400) cubic yards or more for sale and removal thereof from the site shall be defined as commercial mining. The conduct of commercial mining shall be permitted only upon issuance of a Conditional Use Permit.

Commercial mining operations in existence prior to the enactment of this Ordinance, shall apply for a conditional use permit and be subject to the provisions of this Ordinance at any time that the existing mining operation is expanded or moved to another land parcel. The following requirements shall apply to commercial mining operations:

- F. In addition to the requirements for conditional use permits, the following information shall accompany the conditional use permit application in writing with necessary maps.

1. Site Plan

- (a) Area of site
- (b) Proximity of site to lot lines, adjacent structures
- (c) Existing drainage and permanent or temporary ponding areas

2. Operational Plan

- (a) Placement of structures and equipment
- (b) Location and amount of materials to be removed

- (c) Location and height of materials to be stock piled
- (d) Altered drainage and ponding areas
- (e) Erosion and sediment controls to be used
- (f) Dust, noise, and smoke control
- (g) Duration of mining operation
- (h) Hours of operation
- (i) Materials to be produced
- (j) Other activities occurring related to mining activity

3. Reclamation Plan

- (a) Final grade of site
- (b) Vegetative cover
- (c) End use of site

4. Other information as may be requested by the Planning Commission or Town Board.

- G. The Town may require updated operational plans on an annual basis. The approval of the annual operational plan shall be a condition of the use permit.
- H. Any use beyond the stockpiling, extraction, and crushing of materials such as crushing, washing, or processing of materials; the production of architectural or structural stone; or the manufacture of asphalt, concrete or concrete building blocks; or any activity other than what is described in the conditional permit shall be considered a separate use and shall require an amendment of issuance of a conditional use permit.
- I. The Town Board may place conditions upon the issuance of the permit in addition to those described in the conditional use permit procedure. These conditions may include, but are not limited to:
  - 1. Maintenance standards of site - including weed control, storage and parking of vehicles and equipment.
  - 2. Drainage and sediment control.
  - 3. Fencing and screening.
  - 4. Location and maintenance of access roads and hauling routes.
  - 5. Dust, noise, and smoke control.
  - 6. Setbacks from property lines.
  - 7. Hours of operation.
  - 8. Rehabilitation of land and vegetation.

9. Posting of performance bond to reimburse the Town for any costs which may be incurred for the following:

- (a) Costs of bringing the operation into compliance with the conditional use permit requirements.

Costs of reclamation should the permittee fail to execute any part of a reclamation plan as required within this Ordinance or as a condition of the permit.

- (b) Extraordinary costs of repairing roads due to the special burden resulting from the hauling of materials and traffic associated with the operation. The amount of such cost shall be determined by the Town Board.

Subd. 7. Refuse: All lots within all zoning districts shall be maintained in a neat and orderly manner. No rubbish, salvage materials, junk, or miscellaneous refuse shall be openly stored or kept in the open when the same is construed by the Town Board to be a menace or nuisance to the public health, safety, or general welfare of the Town, or to have a depressing influence upon property values in the area. Junkyards, wrecking yards and salvage yards shall be considered a commercial or industrial use.

Subd. 8. Blighting Factors Prohibited: It is hereby determined that the uses, structures and activities and causes of blight or blighting factors described in this Subdivision if allowed to exist, will tend to result in blighted and undesirable neighborhoods, so as to be harmful to the public health, safety, and welfare. No person shall maintain or permit to be maintained, any of these causes of blight or blighting factors upon any property in the Town owned, leased, rented or occupied by such person.

A. Blighting Conditions: The following conditions are found to create blighting conditions and are hereby prohibited:

1. Storage of Junk Automobiles: The storage upon any property of junk automobiles, unless stored in a garage, similar structure, or screened from view from adjacent property or the public right-of-way, shall be considered blight. For the purpose of this Subdivision, the term "junk automobiles" shall include any motor vehicle, part of a motor vehicle, stored in the open for more than thirty (30) days, which is not currently licensed for use upon the highways of the State of Minnesota, or is either:

- (a) Unusable or inoperable because of lack of, or defects in component parts; or

- (b) Unusable or inoperable because of damage from collision, deterioration, alteration or other factors; or
- (c) Beyond repair and, therefore, not intended for future use as a motor vehicle; or
- (d) Being retained on the property for possible use of salvageable parts. A classic car or pioneer car, as defined in Minnesota Statutes, section 168B.10 shall not be considered a "junk automobile" within the meaning of this Subdivision. Motor vehicles on the premises of a junk or salvage yard, which is licensed in accordance with Minnesota Statutes, Section 161.242 and is permitted under local laws and zoning regulations, shall not be considered "junk automobiles" within the meaning of this Subdivision.

2. Storage of Junk: The storage, accumulation, or salvaging of junk, trash, rubbish or refuse of any kind, except if stored in such a manner as to not create a nuisance or blighting condition for a period not to exceed thirty (30) days. The term "junk" shall include parts of machinery or motor vehicles; unused appliances stored in the open; unused mobile or manufactured homes; remnants of wood materials, decayed, weathered or broken construction materials no longer suitable for sale or use as approved building materials; metal or other material or cast off materials of any kind, whether or not the same could be put to any reasonable use.

B. Enforcement of Blight Regulations: The following procedures shall be followed in the enforcement of the regulations set forth in Subd. 6 of this section.

- 1. Notice of Violation: The owner of any property upon which any of the causes of blight or blighting factors set forth in Subd. 6 of this section is found to exist, shall be notified in writing by the Zoning Administrator, Town Board or other agent of the Town Board to remove or eliminate such causes of blight or blighting factors from the property within fifteen (15) days after service of the notice upon the owner of the affected property. The notice may be served personally or by registered mail, return receipt requested, to the last known address of the owner. Additional time may be granted by the Town Board or its agent where bona fide efforts to remove or eliminate such causes of blight or blight factors are in progress.
- 2. Failure to Comply: Failure of the owner to comply with such notice within the time allowed shall constitute a violation of this Ordinance.

3. Failure to Remove Blight: In the case of failure to remove any blight as defined herein, within the time prescribed, the Town Board may order the blight removed or the condition corrected with the cost to be charged back to the property owner. Where automobiles are involved, they shall be removed and disposed of in accordance with Minnesota Statutes Chapter 168B. All other goods seized by the Town shall be disposed of in conformity with applicable State law. The Town Board may certify the cost of the service to the County Auditor as an unpaid service charge which will then be collected together with the property taxes as provided for in Minnesota Statutes 366.012. As an additional or alternative remedy, the owners of the land shall be liable for such costs, said costs shall be recoverable in any action brought against them in the name of the Town.

- Subd. 9. Vision Clearance at Corners, Curb Cuts and Railroad Crossings  
Notwithstanding any part of this Ordinance or any permit or variance granted, no building, or any obstacle, or any portion thereof shall be placed or retained in such a manner to constitute a traffic hazard or obstruct the vision clearance of corners, crossings, or access points.
- Subd. 10. Performance Standards: All users shall comply with all federal, state, and local pollution and nuisance laws and regulations, including but not limited to glare, smoke, dust, odors, and noise. The burden of proof for compliance with appropriate performance standards shall lie with the applicant.
- Subd. 11. Administrative Standards: Whenever in the course of administration and enforcement of this Ordinance, it is necessary or desirable to make any administrative decision, then, unless other standards are provided within this Ordinance, the decisions shall be made so that the result will be consistent with the intent and purpose of this Ordinance as described in Section 1, Subd. 2 of this Ordinance.
- Subd. 12. Public Water Alteration: Any alteration which will change or diminish the course, current or cross section of a public water shall be approved by the Commissioner of the Minnesota Department of Natural Resources, in accordance with the procedures of Minnesota Statute 1974, Section 105.42 as amended. This alteration includes construction of channels and ditches; lagooning; dredging of lake or stream bottoms for removal of muck, silt or weeds; and filling in the lake or stream bed.
- Subd. 13. Design Standards: The architectural appearance and function of any building and site shall not be so dissimilar to the existing buildings or area as to constitute a blighting influence. Earth sheltered buildings are allowed if in compliance with all other zoning provisions promulgated in M.S. 462.357.

- Subd. 14. Off-Road Parking and Loading: All applicants for a building permit should include off-road parking and loading areas adequate to serve the proposed development.

## **SECTION 7. YARD, LOT AREA AND BUILDING SIZE REQUIREMENTS**

- Subd. 1. Purpose: The purpose of this section is to determine minimum yard, area, and building size requirements to be applied for each zoning district.

- Subd. 2. Yard Requirements: The minimum yard setback distances from the appropriate lot line are set forth within the district provisions of this Ordinance.

- A. Corner Lots: Where a lot is located at the intersection of two (2) or more streets, the width of the yard along the side street shall not be less than one hundred (100) feet.
- B. Through Lots: On a lot fronting on two (2) parallel streets, both street lines shall be front lot lines for applying the yard regulations of this Ordinance.
- C. Earth Sheltered Buildings: Computations for yard requirements shall be based upon measurements from the exposed exterior surface of the building.
- D. Exceptions: The following shall not be considered as encroachment into yard setback requirements.
  - 1. Architectural projects extending not more than three (3) feet into a yard area.
  - 2. In rear yards, recreational and laundry drying equipment, balconies, breezeways, open porches, and air conditioning or heating equipment, provided they do not extend to a distance less than ten (10) feet from any lot line.
  - 3. In all yards, terraces, steps, or similar features, provided they do not extend to a distance less than ten (10) feet from any lot line.
  - 4. Fencing not exceeding eight (8) feet in height.

- Subd. 3. Lot Area Requirements: The minimum lot area requirements are set forth within the district provisions of this Ordinance.

- A. Lot Area Exception: A lot or record existing upon the effective date of this Ordinance which does not meet the area or width requirements of this Ordinance may be utilized provided that due to ownership patterns, the

combining of adjacent lots to meet the requirements of this Ordinance is not possible and all sanitary sewer standards of the County are met.

Subd. 4. Building Size Requirements. The following building size standards shall apply.

A. Height Exceptions. The building height limits established shall not apply to belfries, cupolas, domes, spires, monuments, airway beacons, radio towers, flag poles, chimneys or flues,; nor to elevators, water tanks, poles, towers and other structures for essential service; nor to agricultural structures; nor to similar structures extending above the roof of any building and not occupying more than twenty-five (25) percent of the area of such roof.

B. Minimum Ground Floor Area. All dwellings must have a ground floor area of at least seven hundred and fifty (750) square feet.

## **SECTION 8. NONCONFORMING BUILDINGS, STRUCTURES AND USES**

Subd. 1. Purpose: It is the purpose of this section to provide for the regulation of nonconforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which nonconforming buildings, structures, and uses will be operated and maintained. The Zoning Ordinance establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this section that all nonconforming uses shall be eventually brought into conformity.

Subd. 2. Any structure or use lawfully existing upon the effective date of this Ordinance shall not be enlarged, but may be continued at the size and in the manner of operation existing upon such date except as hereinafter specified or, subsequently amended.

Subd. 3. Nothing in this Ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Zoning Administrator provided the necessary repairs shall not constitute more than fifty (50) percent of fair market value of such structure. Said value shall be determined by the County Assessor.

Subd. 4. No nonconforming building, structure or use shall be moved to another lot or to any other part of the parcel or lot upon which the same was constructed or was conducted at the time of this Ordinance adoption, unless such movement shall bring the nonconformance into compliance with the requirements of this Ordinance.

Subd. 5. When any lawful nonconforming use of any structure or land in any district



has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.

- Subd. 6. A lawful nonconforming use of a structure or parcel of land may be changed to lessen the nonconformity of use. Once a nonconforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the nonconformity.
- Subd. 7. If at any time a nonconforming building, structure or use shall be destroyed to the extent of more than fifty (50) percent of its fair market value, said value to be determined by the County Assessor, then without further action by the Board, the building and the land on which such building was located or maintained shall, from and after the date of said destruction, be subject to all the regulations specified by these zoning regulations for the district in which such land and buildings are located. Any building which is damaged to an extent of less than fifty (50) percent of its value may be restored to its former extent. Estimate of the extent of damage or destruction shall be determined by the Zoning Administrator.
- Subd. 8. Whenever a lawful nonconforming use of a structure or land is discontinued for a period of six (6) months, following written notice from an authorized agent of the Town, any future use of said structure or land shall be made to conform with the provisions of this Ordinance.
- Subd. 9. Normal maintenance of a building or other lawful nonconforming use is permitted, including necessary non-structural repairs and incidental alterations which do not physically extend or intensify the nonconforming use.
- Subd. 10. Alterations may be made to a building or other lawful nonconforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units or size or volume of the building.
- Subd. 11. Any proposed structure which will, under this Ordinance, become nonconforming but for which a building permit has been lawfully granted prior to the effective date of this Ordinance, may be completed in accordance with the approved plans; provided construction is started within sixty (60) days of the effective date of this Ordinance. Such structure and use shall thereafter be a legally nonconforming structure and use.

## **SECTION 9. ADMINISTRATION AND ENFORCEMENT**

- Subd. 1. Administrating Officer: This Ordinance shall be administered and enforced by the Zoning Administrator who shall be appointed by the Town Board.
- Subd. 2. Duties of the Zoning Administrator: The Zoning Administrator shall enforce the provisions of this Ordinance and shall perform the following duties:

- A. Determine that all building permits comply with the terms of this Ordinance.
- B. Issue certificates of occupancy for any use, structure, or building after determination of above.
- C. Maintain permanent and current records of this Ordinance, including but not limited to, all maps, amendments, conditional uses, variances, appeals and applications thereof.
- D. Receive, file and forward all applications for appeal, variances, conditional uses, interim uses, amendments and other matters to the designated official bodies.
- E. Institute in the name of the Town, any appropriate actions or proceedings against a violator as provided by law.

**Subd. 3. Building Permit Required.**

- A. Scope: From and after the effective date of this Ordinance, it shall be unlawful to proceed with the construction of any building without first obtaining a building permit.
- B. Application: Requests for a building permit shall be filed with the Zoning Administrator on an official application form. Each application for a permit shall be accompanied by a site and floor plan drawing showing the dimensions of the lot to be built upon, 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 development codes.
- C. Issuance of Permit. The Zoning Administrator shall approve the issuance of the building permit only when the plans comply with this Ordinance and other applicable Town ordinances.

**Subd. 4. Fees**

- A. To defray administrative costs of processing of requests for building permits, conditional uses, amendments, variances and appeals, a base fee per application shall be paid by all applicants, in accordance with a fee schedule adopted by resolution by the Town Board.
- B. In order to defray the additional cost of processing applications (zoning permit, amendment, conditional use, variance, appeal) for developments, all applicants shall pay the total cost of staff and/or consulting time spent exclusively in producing materials for the

applicant's request, and all materials for said request.

1. "Materials" shall include, but not be limited to, maps, graphs, charts, drawings, etc., and all printing or reproduction of same.
2. "Staff and/or consulting time" shall include any time spent in either researching for or actual production of materials.
3. The hourly rate for "staff and/or consulting time" shall be established and made available to the applicant by the Zoning Administrator prior to production of any materials and the applicant shall be given a reasonable estimate of project time and/or materials costs.

- C. Fees shall be payable at the time applications are filed with the Zoning Administrator and are not refundable unless application is withdrawn prior to referral to the Planning Commission. A deposit to cover staff or consulting time and special materials will be established and required by the Zoning Administrator at the time the base fee is paid.

- Subd. 5. Kanabec County shall be responsible for the administration of all applicable County ordinances and regulations, including those addressing shorelands, health, and sanitation facilities

## **SECTION 10. AMENDMENTS AND CONDITIONAL USE PERMITS**

### **Subd. 1. Procedure**

- A. Requests for amendments or conditional use permits, as provided for within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall also be accompanied by complimentary copies of detailed written and graphic materials fully explaining the proposed change, development or use. The Zoning Administrator shall refer said application, along with all related information, to the Town Planning Commission for consideration and a report at least fifteen (15) days before the next regular meeting.
- B. The Zoning Administrator on behalf of the Planning Commission shall set a date for a public hearing. Notice of such hearing shall be posted as provided by state law at least ten (10) days prior to the date of the hearing. For conditional use permits, notices shall be mailed to abutting property owners. For amendments such notice shall also be mailed not less than ten (10) days to all property owners of record according to the county assessment records, within one quarter mile (1/4) or the ten (10) properties nearest property to which the request relates, whichever would provide notice to the greatest number of owners. A copy of the notice and a list of property owners and addresses to which the notices were sent shall be

attested to by the Zoning Administrator or Town Clerk and made part of the official record. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

- C. The Planning Commission shall consider the request and hold a public hearing at its next regular meeting unless the filing date falls within fifteen (15) days of said meeting, in which case the request would be placed on the agenda and considered at the regular meeting following the next regular meeting. The Zoning Administrator shall refer said application, along with all related information, to the Town Planning Commission for consideration. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed amendment or conditional use.
- D. The Planning Commission and Town staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, if information is declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance.
- E. Within sixty (60) days from the date of the public hearing, the Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request of the Town Board.
  - 1. The Planning Commission shall consider possible adverse effects of the proposed amendments or conditional use. Its judgment shall be based upon, but not limited to, the following general factors:
    - (a) Relationship to Town's Comprehensive Plan.
    - (b) The use will not create an excessive demand on existing public services and facilities.
    - (c) The use will be sufficiently compatible or separated by distance or screening from adjacent development or land so that existing development will not be depreciated in value and there will no deterrence to development of vacant land.
    - (d) The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties.
    - (e) The use, in the opinion of the Town, is reasonably related to the overall needs of the Town and to the existing land use.

- (f) The use is consistent with the purposes of the zoning ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
  - (g) The use will not cause traffic hazard or congestion.
2. In considering conditional use requests, the Planning Commission shall evaluate the use, utilizing from the requirements "a" through "l" below, those which are specific to the designated uses as indicated in "3" below:
- (a) The land area and setback requirements of the property containing such a use or activity shall be the minimum established for the district.
  - (b) When abutting a residential use in a district permitting residences, the use shall be appropriately screened and landscaped.
  - (c) Where applicable, all Town, County, State and Federal laws, regulations and ordinances shall be complied with and all necessary permits secured.
  - (d) All signs shall not adversely impact adjoining or surrounding residential uses.
  - (e) Adequate off-road parking and loading shall be provided. Such parking and loading shall be screened and landscaped from abutting residential uses located in a district permitting residences.
  - (f) The road serving the use or activity is of sufficient design to accommodate the proposed use or activity; and such use or activity shall not generate such traffic to create a nuisance or hazard to existing traffic or to surrounding land uses, or result in the need for excessive road improvements or maintenance.
  - (g) All access roads, driveways, parking areas, and outside storage, service, or sales areas shall be surfaced or grassed to control dust.
  - (h) All open and outdoor storage, sales and service areas shall be screened from view from abutting residential uses or districts.
  - (i) All lighting shall be designed as to have no direct source of light visible from adjacent residential areas or from the public streets.
  - (j) The use or activity shall be properly drained to control surface water runoff.
  - (k) The architectural appearance and functional plan of the

building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence.

- (l) Where structures combine residential and nonresidential uses, such uses shall be separated and provided with individual outside access, and the uses shall not conflict in any manner.

- 3. The conditional use application shall comply with the minimum specific requirements pertaining to each designated conditional use as stated below:

<u>CONDITIONAL USE</u>	<u>REQUIREMENTS</u>
Commercial uses	a,b,c,d,e,f,g,h,i,j,k,l
Industrial uses	a,b,c,d,e,f,g,h,i,j,k,l
Commercial recreational parks, campgrounds, facilities	a,b,c,d,e,f,g,h,i,j,k,l
Churches	a,c,e,f,g,k,l
Organized group camps	a,b,c,d,e,f,g,k,l
Extraction of sand, gravel, minerals, or rock	a,b,c,d,e,f,g,j
Two-family, multi-family residences	a,c,e,f,g,j,k

All conditions pertaining to a specific site are subject to change when the Planning Commission or Town Board, upon investigation, finds the community health, safety, welfare, and public betterment can be served as well or better by modifying the conditions.

- F. Upon receiving the report and recommendation of the Planning Commission, or until sixty (60) days after the first Planning Commission meeting, at which the request was considered, the Town Board shall place the report and recommendation on the agenda for the next regular meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the Town Board meeting.
- G. Upon receiving the report and recommendation of the Planning Commission, such report and recommendation shall be entered in and made part of the permanent written record of the Town Board meeting. The Town Board, based on findings of fact, shall either:

1. Approve or disapprove the request as recommended by the Planning Commission, based upon whether the application meets the requirements stated in the ordinance.
2. Approve or disapprove the recommendation of the Planning Commission with modifications, alterations, or differing conditions. Such modifications, alterations or differing conditions shall be in writing and made part of the Board's records, or
3. Refer the recommendation back to the Planning Commission for further consideration. This procedure shall be followed only one time on a singular action.

Approval of a request shall require a two-thirds (2/3) vote of the full Town Board. The Zoning Administrator or Town Clerk shall notify the applicant of the Board's action.

- H. The recommendation of the Planning Commission shall be advisory to the Town Board. The decision of the Town Board shall be final subject to judicial review.

Subd. 2. Amendments – Initiation: The Town Board or Planning Commission may, upon their own motion, initiate a request to amend the text or district boundaries of the ordinance. Any person owning real estate with the Town may initiate a request to amend the district boundaries or text of this Ordinance so as to affect the said real estate. All amendment requests must first be reviewed by the Planning Commission.

Subd. 3. Lapse of Conditional Use Permit By Non-Use: Whenever within one (1) year after granting a conditional use permit, the work as permitted by the permit shall have not have been completed, then such permit shall become null and void unless a petition for an extension of time in which to complete the work has been granted by the Town Board. Such extension shall be requested in writing and filed with the Zoning Administrator or Town Clerk at least thirty (30) days before the expiration of the original conditional use permit. There shall be no charge for the filing of such a petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the conditional use permit. Such petition shall be presented to the Planning Commission for a recommendation and to the Town Board for a decision and shall be requested only one time on a singular action.

Subd. 4. Performance Bond: The Planning Commission and Town Board shall have the authority to require a performance bond or other security when it is deemed necessary and appropriate.

- A. Except in the case of non-income producing residential property, upon approval of a conditional use permit the Board may require a surety bond, cash escrow, certificate of deposit, securities, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the conditional use permit and the ordinances of the Town.
- B. The security may be in the amount of the Town Board's estimated costs of labor and materials for the proposed improvements or development. Said project can be handled in stages upon the discretion of the Board.

## **SECTION 11. VARIANCES AND APPEALS**

Subd. 1. Board of Adjustment and Appeals: The Town Board shall act as the Board of Adjustment and Appeals and shall have the following powers:

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

Subd. 2. Procedure

- A. Requests for variances or appeals shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as outlined in Section 9, Subd. 4. This fee shall not be refunded. Such application shall also be accompanied by complimentary copies of detailed written or graphic materials fully explaining the proposed request. The Zoning Administrator shall refer said application, along with all related information to the Planning Commission, acting in an advisory role to the Board of Appeals, for consideration and report at least fifteen (15) days before the next regular meeting.
- B. The Planning Commission acting in an advisory role to the Board of Adjustment and Appeals, shall consider the request at its next regular meeting unless the filing date falls within (15) days of said meeting in which case the request would be placed on the agenda and considered at the regular meeting following the next regular meeting. The Zoning Administrator shall refer said application, along with all related information to the Town for consideration. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning proposed amendment or



conditional use.

- C. The Planning Commission and Town staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information is declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance.
- D. Within sixty (60) days from the date of the first meeting at which the request was considered, the Planning Commission shall make a finding of fact and recommend to the Town Board such actions or conditions relating to the request. Such findings shall be entered in and made a part of the written record of the Board of Adjustment and Appeal's meeting.
  - 1. In considering requests for variances, the Planning Commission shall make a finding of fact as to whether the request meets all of the following cases.
    - (a) The proposed action will be in keeping with the spirit and intent of the Comprehensive Plan and Zoning Ordinance.
    - (b) The property in question cannot be put to a reasonable use if used under conditions allowed by this Ordinance.
    - (c) The plight of the landowner is due to circumstances unique to the property and not created by the landowner.
    - (d) The variance, if granted, will not alter the essential character of the locality or adversely impact the environment.
    - (e) The variance requested is the minimum variance which would alleviate the hardship.
    - (f) Access to direct sunlight in cases of solar energy systems shall also constitute grounds for granting a variance.
  - If the variance request meets all of the conditions of items (a) through (e) above, the variance may be granted. Economic considerations alone shall not constitute an undue hardship if reasonable use of the property exists under the terms of the Ordinance. The Board of Adjustment and Appeals may not permit as a variance any use which is not permitted within the zone where the land is located.
- E. Upon receiving the report the recommendation of the Planning

Commission, or until sixty (60) days after the first Town Board meeting at which time the request was considered, the Town Board, acting as the Board of Adjustment and Appeals, shall place the report and recommendation on the agenda for the next regular meeting. Such reports and recommendations shall be entered in and made a part of the permanent written record of the Town Board meeting.

- F. Upon receiving the report and recommendation of the Planning Commission, the Town Board shall either:
1. Approve or disapprove the request as recommended by the Planning Commission, or
  2. Approve or disapprove the recommendation of the Planning Commission with modifications, alterations, or differing conditions. Such modifications, alterations, or differing conditions shall be in writing and made part of the Town Board's records, or
  3. Refer the recommendation back to the Planning Commission for further consideration. This procedure shall be followed only one time on a singular action.

Approval of variances or appeals shall require passage by two-thirds (2/3) vote of the full Town Board. The Zoning Administrator or Town Clerk shall notify the applicant of the Town Board action.

- G. The decision of the Planning Commission acting as the Board of Adjustment and Appeals shall be advisory to the Town Board. The decisions of the Town Board shall be final subject to judicial review.

Subd. 3. Lapse of Variance or Appeal: Whenever within one (1) year after granting a variance or appeal the work as permitted by the variance or appeal shall not have been completed, then such variance shall become null and void unless a petition for extension of time in which to complete the work has been granted by the Town Board. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original variance or appeal. There shall be no charge for the filing of such petition. The written request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance or appeal. Such petition shall be presented to the Planning Commission for a recommendation and to the Town Board for a decision, and shall be requested only one time on a singular action.

Subd. 4. Performance Bond: The Board of Adjustment and Appeals shall have the authority to require a performance bond or other securities when it is deemed necessary and appropriate.

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

## **SECTION 12. ENVIRONMENTAL REVIEW PROGRAM**

- Subd. 1. Purpose: The purpose of the Environmental Review Program section is to provide for the preparation and review of Environmental Assessment Worksheets (EAW), Environmental Impact Statements (EIS), and other environmental documents required under Statute 116D.04, Subd. 2 (1974) and MN Statute 116D.01 (1974) as amended, to implement the Environmental Review Program in accordance with 6MCAR 3.021 to 3.047

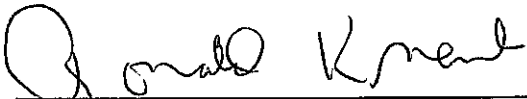
## **SECTION 13. PENALTIES AND VIOLATIONS**

- Subd. 1. Any person who violates any provision of this Ordinance shall, upon conviction thereof, be fined not more than five hundred dollars (\$500) for each offense, or imprisoned for not more than ninety (90) days, or both. Each day that the violation is permitted to exist constitutes a separate offense.

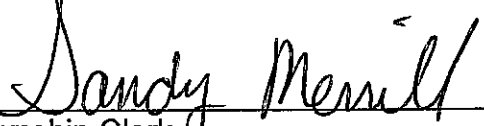
**SECTION 14. DATE OF EFFECT.**

Subd. 1. Date of Effect. This Ordinance shall be in full force and effect and after its passage and approval as provided by law.

Passed and approved this 5<sup>th</sup> day of June, 2007.

  
Chairman

ATTEST:

  
Township Clerk