

# **CLITHERALL TOWNSHIP ZONING ORDINANCE**

**CLITHERALL TOWNSHIP  
OTTER TAIL COUNTY, MINNESOTA**

Ordinance No. 2015-01

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**CLITHERALL TOWNSHIP  
ZONING ORDINANCE**

The Board of Supervisors of the Town of Clitherall ordains:

**SECTION I. GENERAL PROVISIONS**

**A. TITLE:**

From the date of its passage, this Ordinance shall be known, cited, and referred to as the Clitherall Township Zoning Ordinance (and is referred to herein as this "Ordinance").

**B. PURPOSE:**

This Ordinance is enacted to promote the health, safety, and general welfare of the inhabitants of the Township by securing safety from fire, panic, and other dangers; to prevent the overcrowding of land; to conserve the value of properties; to promote the orderly development of the residential, commercial and recreational areas; to conserve the natural and scenic characteristics of the area; and to encourage the most appropriate use of land. This Ordinance shall prescribe the penalties for violation of any of the provisions herein.

**C. JURISDICTION:**

This Ordinance shall apply to all areas in Clitherall Township, Otter Tail County, Minnesota, except areas within the incorporated limits of any city, however organized, or as may otherwise be provided by law.

**D. COMPLIANCE:**

From and after the effective date of this Ordinance, the use of all land and every building or portion of a building erected, altered with respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, within the Township, including those portions of the Township which are at this time also being regulated under the provisions of Otter Tail County Shoreland Management, shall be in conformity with the provisions of this Ordinance. Construction of all structures and uses must be in accordance with the application, plans, permit, and any applicable variance. Land use permits, conditional use permits, and interim use permits issued on the basis of approved plans and applications authorize only the use and construction set forth in such approved plans and applications and no other use or construction. No lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirement set forth herein. Lots created after the effective date of this Ordinance shall meet at least the minimum requirement of this Ordinance. Any use or construction not in conformance with that authorized shall be deemed a violation of this Ordinance unless a new or amended permit or variance is first obtained from the Township.

**E. MINIMUM REQUIREMENTS AND STRICTNESS:**

In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and welfare. Where the standards, regulations or requirements imposed by any provision of this Ordinance are either more or less restrictive than comparable standards, regulations or requirements imposed by any

other ordinance, rule, or regulation of the Township, County, State or Federal government, the statute, ordinance, rule or regulation which imposes the more restrictive condition, standard, regulation or requirement shall prevail. In the event of any conflict between this Ordinance with any private restrictions, protections or covenants, the provisions of this Ordinance shall be met. 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. References in this Ordinance to any statutes, rules, regulations, or ordinances shall include any amendments to, or successors of, those statutes, rules, regulations, or ordinances.

**F. CONSISTENCY:**

Should any provision in this Ordinance conflict with, or be found inconsistent with Minnesota Statutes, Chapter 462, the provisions of the applicable section of Minnesota Statutes, Chapter 462 shall apply, and supersede the inconsistent or conflicting terms of this Ordinance. It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

**G. LEGAL AUTHORITY:**

This Ordinance is enacted pursuant to Minnesota Statutes, sections 462.351 to 462.365 and such other law as may apply. This Ordinance does not rely on the authority provided in Minnesota Statutes, sections 366.10 to 366.181 and the procedures and requirements of those sections do not apply to this Ordinance.

**H. COUNTY REGULATIONS:**

1. Shorelands. Those portions of the Township designated as shoreland areas by the County are classified by this Ordinance as being within an overlay district and are subject to both the County's shoreland regulations and the regulations contained herein that are applicable in the underlying zoning district.
2. Subdivisions. Those proposing to subdivide property within the Township shall be subject to the County's subdivision regulations, the subdivision regulations contained in this Ordinance, and the regulations applicable in the particular zoning district. Pursuant to Minnesota Statutes, section 505.09, subdivision 1a, the County may not approve the platting of any land within the Township unless the Town Board first approves the plat and the laying of streets and other public ways shown on it.
3. ISTS/SSTS. The County is responsible for administering and enforcing Minnesota Rules, Chapters 7080-7083 regulations regarding individual subsurface sewage treatment systems (ISTS) or subsurface sewage treatment system (SSTS) in the Township. Permits for such systems must be obtained from the County.

**I. PRIOR ZONING ORDINANCES:**

This Ordinance supersedes and replaces all previous land use and zoning ordinances adopted by the Town Board and all such previous land use and zoning ordinances are hereby repealed. The repeal of the Township's previous land use and zoning ordinances does not itself affect

the status of any use, structure, or lot that was not in conformance with the earlier ordinances.

**J. APPLICATIONS:**

All applications must be on forms approved by the Town Board. Any requests not submitted on an approved Township form shall not be considered an application for the purposes of this Ordinance or Minnesota Statutes, section 15.99 and shall be rejected. An application shall be immediately rejected if it is not accompanied by the required application fee. If an escrow is required, the applicant shall submit the required amount for escrow with the Township within five (5) days of the submission of the application or the application shall be deemed incomplete and will not be processed.

**K. UNPAID TAXES OR CHARGES:**

Any application for a zoning request related to property in which there are delinquent property taxes, special assessments, penalties, interest, or past due public utility fees shall not be considered complete and shall not be processed until the owner certifies to the Township, with adequate supporting documentation, that all such delinquent or past due amounts, interest, and penalties have been paid in full. Furthermore, any person that submits an application for a zoning request that owes the Township for past zoning related fees or costs, or if the application relates to property on which there are zoning related fees or costs owed to the Township, the application shall be deemed incomplete and shall not be accepted or processed until all such delinquent or past due amounts have been paid in full to the Township. The Township will not issue a permit or variance to any of the above described properties until all past due amounts, penalties, and interest have been paid in full. The Township may collect any zoning related fees, charges, or costs owed to it by certifying the amount to the County Auditor as a service charge pursuant to Minnesota Statutes, section 366.012 for collection together with the property taxes levied against any real property the person or entity owing the amount owns in the State. The Township will provide the property owner written notice of its intent to certify the amount on or before September 15. The amounts so certified to the County shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes.

**L. SEVERABILITY:**

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect the application of said provisions to any other property, building, or structure not specifically included in said judgment.



## SECTION II. DEFINITIONS AND RULES OF INTERPRETATION

### A. DEFINITIONS:

For the purpose of this Ordinance the following terms shall have the meaning given them in this section, unless specifically stated otherwise in this Ordinance. Any term not specifically defined in this Ordinance shall have the meaning given it in the County Zoning Ordinance and, if not defined therein, it shall have the meaning given it in the most applicable Minnesota Statute or Rule.

1. ACCESSORY STRUCTURE - A subordinate building or portion of the principal structure which is located on the same lot as the principal structure and the use of which is clearly incidental to the use of the principal structure.
2. ACCESSORY USE – A use naturally and normally incidental to, subordinate to, and auxiliary to the principal use of the property.
3. ADMINISTRATIVE FEE – An amount of money set by the Town Board or the Zoning Administrator which an applicant is required to deposited with the Township as part of a zoning request and from which the Township withdraws funds as needed to reimburse itself for the actual professional costs it incurs to process and act on the applicant’s request. Any unused portion of the administrative fee is returned to the applicant without interest.
4. AGRICULTURAL BUILDING - A structure designed, constructed, and used to house farm implements, livestock, or agricultural produce or products used by the owner and members of the owner’s immediate family as defined in Minnesota Statutes, section 326B.103, subdivision 2, as it may be amended.
5. AGRICULTURE ORIENTED BUSINESS – A business including, but not limited to, commercial storage and blending of liquid and dry fertilizers, grain and feed sales, general repair and installation services for agricultural equipment, custom meat processing, agricultural supply and product sales or warehousing, agriculture-related compost facilities, greenhouse and nursery sales, petting zoos, and riding stables.
6. AGRICULTURE USES - The use of land for agricultural purposes including farming, dairying, pasturage, apiculture, aquaculture, fish farming, floriculture, horticulture, viticulture, animal and poultry husbandry, and truck gardening.
7. ALLEY – A public right-of-way that affords a secondary means of access to abutting property and is not intended for general traffic circulation.
8. ANIMAL FEEDLOT – Shall have the same meaning as Livestock Feedlot.
9. ANIMAL UNIT – A unit of measure used to compare the difference in the production of animal waste that, as a standard, uses the amount of waste produced on a regular basis, by a slaughter steer or heifer. For animals not listed in the following chart, the number of animal units shall be defined as the average weight of the animal divided by 1,000 pounds. For purposes of these regulations, the following equivalents apply:

<b>ANIMAL UNIT EQUIVALENT CHART</b>	
<b>ANIMALS</b>	<b>EQUIVALENT</b>
Dairy Cattle (milked or dry): One mature over 1,000 lbs One mature under 1,000 lbs One heifer One calf	1.4 animal units 1.0 animal units 0.7 animal units 0.2 animal units
Beef Cattle: One slaughter steer or stock cow One feeder cattle or heifer One cow and calf pair One calf	1.0 animal units 0.7 animal units 1.2 animal units 0.2 animal units
Swine: One over 300 lbs One between 55 lbs and 300 lbs One under 55 lbs	0.4 animal units 0.3 animal units 0.05 animal units
One horse	1.0 animal units
One sheep or lamb	0.1 animal units
Chickens: Liquid Manure Facility: One laying hen or broiler Dry manure facility: One over 5 lbs One under 5 lbs	0.033 animal units 0.005 animal units 0.003 animal units
Turkeys: One over 5 lbs One under 5 lbs	0.018 animal units 0.005
One duck	0.01 animal units

10. **APPLICATION FEE** – The nonrefundable fee an applicant for a zoning request must submit to the Township together with his or her zoning application. The amount of the required application fee is established by the Town Board as part of the Township’s fee schedule.
11. **BOARD OF APPEALS AND ADJUSTMENTS** – The Clitherall Township Board of Appeals and Adjustment established by this Ordinance and authorized to carry out the duties prescribed by law and this Ordinance. The Town Board serves as the Board of Appeals and Adjustments.
12. **BUILDING** - Any structure for the shelter, support or enclosure of persons, animals, chattel, or property of any kind, and when separated by party walls without openings, each portion of such building so separated shall be deemed a separate building.
13. **CEMETERY** – Property used for the interring of the dead.
14. **CLASS A HOME OCCUPATION** – A business or occupation carried out on residential property which only employs persons residing within the home and do not require additional employees, separate employee or customer parking, does not utilize an accessory building, and does not generate a noticeable increase in traffic. Home occupations such as, but not limited to, architects, artists, clergymen, clothing

alterations, domestic crafts making, and similar uses shall be classified as Class A home occupations.

15. CLASS B HOME OCCUPATION – A business or occupation carried out on residential property which has the potential for generating a noticeable increase in traffic, requires additional parking, involves employees not residing in the home, or utilizes an accessory building. Home occupations such as barber shops, beauty salons, clothing shops, bed-and-breakfast inns, museums, animal hospitals, schools, and similar uses conducted within a dwelling or accessory structure shall be classified as Class B home occupations.
16. CLOSED LANDFILL OVERLAY DISTRICT – An overlay district that encompasses the land in and around the closed Battle Lake Landfill that is identified by the Minnesota Pollution Control Agency as being within the identified Methane Gas Area of Concern or the Groundwater Area of Concern associated with the landfill. Land within the district is subject to the provisions of this Ordinance applicable to the underlying zoning district, the provisions in this Ordinance applicable to the closed landfill overlay district, and to the land use plan developed and administered by the Minnesota Pollution Control Agency for the area.
17. COMMERCIAL BUSINESS – The principal use of land or a building for a commercial use. The term is intended to be defined broadly to include commercial uses that are not specifically identified in this Ordinance, provided such uses are consistent with the uses allowed in the particular zoning district.
18. COMMERCIAL SUBDIVISION – The division of land into two or more lots or parcels for the purpose of sale, transfer, rent or lease primarily for one or more commercial uses. Only commercial uses allowed in the zoning district may be established in the subdivision and then only upon the receipt of all required permits.
19. COMMERCIAL USE – The principal use of land or buildings for the sale, lease, rental or trade of products, goods or services.
20. COMMUNICATION TOWER – Radio, cellular and television broadcasting, transmission and/or receiving towers and antennas which are subject to licensing requirements of the Federal Communications Commission. This does not include residential radio or television reception antennas, or amateur radio station antennas, all of which are deemed to be incidental to residential use.
21. CONDITIONAL USE - A use that has one or more characteristics, or one or more impacts, which are incompatible with the permitted uses within a zoning district, but which, if properly controlled or restricted, will eliminate or minimize the incompatibilities. Uses identified by this Ordinance as a conditional use may only be established after receipt of a conditional use permit from the Town. Once permitted, the use must be established and continue to be operated in compliance with the conditions imposed thereon and the applicable requirements of this Ordinance.
22. CONDITIONAL USE PERMIT – A permit issued by the Township to a specific property for a specific use identified by this Ordinance as a conditional use within the particular zoning district. A conditional use permit is recorded in the office of the County Recorder and runs with the land.

23. COUNTY – Otter Tail County, Minnesota.
24. DAY CARE FACILITY – Any facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis for periods of less than 24 hours a day. Day care facilities include, but are not limited to, family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, developmental achievement centers, day treatment programs, adult day care centers and day services.
25. DEVELOPER – The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase or other persons having enforceable proprietary interests in such land.
26. DIRECTIONAL/INFORMATIONAL SIGN – An on-premise sign giving directions, instructions, or facility information, e.g. parking or exit and entrance signs. The sign may contain a logo or a symbol provided that the logo or symbol does not compromise more than 20 percent of the total sign area.
27. DISTRICT - A portion of the Township shown on the Zoning Map as being within a particular zoning district established by this Ordinance and for which certain standards and regulations apply.
28. DRIVEWAY APPROACH – The portion of a driveway located within a public right-of-way and used to provide access to the property from the road.
29. DUPLEX – A building designed and/or used exclusively for residential purposes and containing two dwelling units separated by a common party wall or otherwise structurally attached. For the purposes of determining the number of dwellings on a property, a duplex shall be considered as two dwellings.
30. DWELLING - Any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings either temporarily or permanently.
31. DWELLING, MULTIPLE – MORE THAN TWO FAMILIES - A building which is designed for or occupied by more than two (2) families living in separate dwelling units. This term does not include hotels, motels, lodging houses, boarding houses, bed and breakfasts, or tourist homes.
32. DWELLING, SINGLE-FAMILY – A detached dwelling designed exclusively for occupancy by one family and containing not more than one dwelling unit.
33. DWELLING UNIT – Consists of one or more rooms, including a bathroom and complete kitchen facilities, which are arranged, designed or used as living quarters for one family or household.
34. EXCAVATION - The excavation of more than 10 cubic yards of earthen materials in any 12 month period. Earthen materials include, but are not limited to, sand, gravel, clay, dirt, or other natural materials.

35. FAMILY – An individual or two or more persons related by blood, marriage or adoption or not more than four unrelated persons living together in an independent, single housekeeping unit.
36. FINAL PLAT – A drawing in final form, showing a proposed subdivision containing all information and detail required by law and by this Ordinance, to be presented to the Town Board for approval, and which, if approved, may be duly filed with the County Recorder.
37. FINAL PLAT APPROVAL – The consideration and action by the Town Board on a final plat prepared by the developer in a manner consistent with the preliminary plat approval issued by the Town Board. The request for final plat approval is initiated by application of the developer, which may only occur after all conditions of preliminary approval imposed on seeking final approval have been satisfied. The Town Board may place conditions on its final plat approval.
38. FREESTANDING SIGN – A sign supported permanently upon the ground by poles or braces and not attached to any building.
39. IDENTIFICATION SIGN – A sign whose copy is limited to the name and address of a building, institution, or person or to the activity or occupation being identified.
40. IMPERVIOUS SURFACE - The percentage of the lot covered with buildings, paving, driveways, sidewalks, gravel, stone and other surfaces that do not allow infiltration of water.
41. INTERIM USE – A temporary use of property that is allowed to continue until a particular date, the occurrence of a particular event, or until zoning regulations no longer permits the use.
42. INTERIM USE PERMIT – A temporary permit issued by the Town Board granting approval of an interim use under conditions listed on said permit. Uses identified by this Ordinance as an interim use may only be established after receipt of an interim use permit from the Township. The permit terminates on the date, or the occurrence of the event, identified in the permit.
43. KENNEL, COMMERCIAL – Any structure, premises, place, or property in or on which animals are boarded, groomed, bred, or trained for financial gain and includes the keeping of three (3) or more dogs of over 6 months of age for financial gain. This term does not include animal agriculture or feedlots.
44. LIGHT INDUSTRY – The use of land for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items and is limited to twenty (20) or fewer employees, which use does not create a nuisance off-site, such as noise, dust, directed light or vibration.
45. LIVESTOCK FEEDLOT (OR FEEDLOT) – A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover

cannot be maintained within the enclosure. For purposes of this Ordinance, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be livestock feedlots. Pastures shall not be considered livestock feedlots under this definition.

46. LOT - One unit of a recorded plat or subdivision occupied or to be occupied by a building and its accessory buildings and including as a minimum such open spaces as are required under this Ordinance.
47. LOT AREA - The area of a lot on a horizontal plane bounded by lot lines.
48. LOT OF RECORD – Any lot that was recorded by deed or filed as a separate parcel with the office of the Otter Tail County Recorder on or before January 1, 2006, or any lot where sufficient proof can be shown that an unrecorded contract for deed was entered into on or before January 1, 2006.
49. LOT FRONTAGE, FRONT LOT LINE – That side of a lot that abuts an existing or dedicated public road, street or highway.
50. LOT LINE -- Any boundary line of a lot, provided that where any lot is encroached upon by a public street, road, or highway, or by any private road easement which was recorded in the office of the County Recorder prior to the effective date of this Ordinance, or otherwise appears binding on the lot owner for the purpose of meeting the minimum requirements of this Ordinance, the lot line shall be the right-of-way line of any such street, road, highway or private easement.
51. LOT LINE, REAR – The boundary of a lot, other than a through lot, which is opposite the front lot line.
52. LOT LINE, SIDE – Those lines of a lot which begin at the point of intersection with a public right-of-way. Any boundary of a lot which is not a front or rear lot line.
53. LOT WIDTH - The width of a lot is the mean smallest distance between the side lines.
54. MINING OPERATION - Any excavation and removal from property of: (1) more than 200 cubic yards of earthen materials in any 12 month period; or (2) more than 100 cubic yards of material in any 12 month period for sale as part of a commercial business. Earthen materials include, but are not limited to, sand, gravel, clay, dirt, or other natural materials.
55. MISDEMEANOR - A crime as defined by Minnesota Statutes, section 609.02, subdivision 3.
56. MOBILE HOME (MANUFACTURE HOME) – Shall have the meaning given manufacture home in Minnesota Statutes, section 327.31, subdivision 6.
57. NONCONFORMING STRUCTURE – A structure that does not conform with the regulations established by this Ordinance for the zoning district in which it is located, but which was lawfully constructed or placed prior to the effective date of the regulations to which it does not conform.

58. NONCONFORMING USE - A use that does not conform with the regulations established by this Ordinance for the zoning district in which it is located, but which was lawfully established prior to the effective date of the regulations to which it does not conform.
59. OFF-PREMISE SIGN – Any sign with a commercial message which directs the attention of the public to a business that is not on the same premises where such business sign is located.
60. ON-PREMISE SIGN – A sign which pertains to the use of the premises or property on which it is located.
61. OPEN SPACE - Any space or area preserved in its natural state and specifically not used for parking, building, roads, or other impervious surfaces. Open space will be preserved by deed restrictions, covenants, permanent easements, public dedication, and acceptance.
62. OUTDOOR RECREATIONAL FACILITY – A facility in which athletic activities such as softball, soccer and baseball would be played, and uses oriented to utilizing the outdoor character of an area including hiking and biking trails and interpretive areas.
63. OWNER (PROPERTY OWNER) – An individual, firm, association, syndicate, partnership, limited liability company, trust, or any other legal entity having a legal or equitable interest in the land.
64. PARCEL - A unit of land that is or is treated as being distinct or separate from a lot, plot, or other such units.
65. PASTURE - Ground normally covered with grass or herbage used or suitable for grazing of horses, livestock or poultry.
66. PERMITTED USE – A use that may be lawfully established in a particular zoning district, provided it conforms with all requirements of this Ordinance, including obtaining any required land use permits, and any performance standards applicable to such use.
67. PLANNING COMMISSION – The Clitherall Township Planning Commission established by ordinance adopted by the Town Board and which is authorized to carry out the duties as provided by law, the ordinance establishing the Planning Commission, and this Ordinance.
68. PLAT - The drawing or map of a subdivision prepared for filing of record pursuant to Minnesota Statutes Chapter 505 and containing all elements and requirements set forth therein, and complying with this Ordinance.
69. PLOT - A tract (other than one unit of a recorded plat or subdivision) occupied and used or intended to be occupied and used as a home site with dwelling and accessory buildings and having, as a minimum, such open spaces as required under this Ordinance.

70. POULTRY LOT - A place of confined feeding, hatching, raising, or holding of poultry in enclosures, yards or pens where animal manure may accumulate.
71. PRACTICAL DIFFICULTIES – When used in connection with considering a variance application, means the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance, the plight of the owner is due to circumstances unique to the property that were not created by the owner, and the variance, if granted, will alter the essential character of the locality. Economic considerations alone shall not constitute practical difficulties.
72. PRELIMINARY PLAT – A drawing in preliminary form indicating a proposed layout of a subdivision to be submitted to the Planning Commission for a hearing and recommendation, and then to the Town Board for consideration. If approved, the developer must satisfy the conditions placed on the preliminary plat approval before applying for final plat approval.
73. PRELIMINARY PLAT APPROVAL – The consideration and action by the Town Board on a preliminary plat prepared by the developer. The request for preliminary plat approval is initiated by application of the developer. If the Town Board approves a preliminary plat, the developer must seek and receive final plat approval before the subdivision is considered approved. The Town Board may place conditions on its preliminary plat approval.
74. PREMISES - A lot or plot including the front, side and rear yards for a dwelling.
75. PRINCIPAL STRUCTURE – The primary or main structure on land which contains the principal use of the land. All other structures on the same land that are subsidiary to, or that support, the principal structure are considered an accessory structure.
76. PRINCIPAL USE – The primary or main use of land that is allowed as a permitted, interim, or conditional use under this Ordinance and for which all required permits have been obtained. Principal uses shall be generally categorized as agricultural, residential, or commercial. If a use is mixed or might qualify under more than one of the general categories, the Town Board shall determine which category is applicable.
77. RELIGIOUS FACILITY – A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.
78. REPAIR SHOP – Any building, premises, and land, in which or upon which a business, service or industry involving maintenance, servicing, repair, or painting of vehicles is conducted or rendered.
79. RETAIL BUSINESS – The principal use of land and a building for the sale of goods, wares, or merchandise directly to the ultimate consumer or persons.
80. ROAD - A public thoroughfare and includes the entire right-of-way.
81. SALVAGE - Salable material recovered from discarded equipment and waste.



82. SALVAGE YARD - Land or buildings where waste, discarded or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled, or handled including, but not limited to, scrap products and products for wrecking of automobiles, other vehicles accessory to any business or industrial use on the same lot. The term also includes any area of land where five (5) or more in the Agricultural District, or three (3) or more in all other districts, motor vehicles or recreational vehicles not in running condition or currently unused, or parts thereof are located, unless stored within a building or garage, behind opaque fencing, or out of sight from all roads and adjacent property dwellings.
83. SETBACK – The minimum horizontal distance between a structure and lot line or right-of-way.
84. SHORELAND – Land located within the following distances from public water: (A) 1,000 feet from the ordinary high water mark of a lake, pond or flowage; (B) 300 feet from a river or stream; (C) or the landward extend of a floodplain designated by Ordinance on such a river or stream, or more than 1,000 feet from a lake, whichever is greater.
85. SIGN – Any letter, word, symbol, poster, picture, statuary, reading matter or representation in the nature of an announcement, message, or visual communication, whether painted, posted, printed, affixed, or constructed including all associated brackets, braces, supports, wires, and structures, which is displayed for information or communicative purposes.
86. SIGN, AREA OF – The space inside a continuous line drawn around and enclosing all letters, designs and background materials, exclusive of border, trim and structural supports.
87. SHOOTING PRESERVE – Areas reserved for public or private hunting of wildlife, and accessory structures in support of those activities, including shooting ranges as identified in Minnesota Statutes, section 87A.01.
88. SOLID WASTE TRANSFER STATION – A facility at which solid waste from collection vehicles is compacted or rearranged for subsequent transport to another location.
89. STRUCTURAL ALTERATIONS - Any change in the supporting members of a building such as bearing walls, columns, beams or girders.
90. STRUCTURE - Anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground. The term does not include accessory buildings smaller than 120 square feet, improved driveways, sidewalks or concrete slabs.
91. SUBDIVISION - The division of a parcel of land after the effective date of the Ordinance into two or more lots or parcels, for the purpose of transfer of ownership or building development. The term includes, but is not limited to, plats subject to Minnesota Statutes, chapter 505.

92. SUBDIVISION IDENTIFICATION SIGN – A freestanding or wall sign identifying a recognized subdivision, condominium complex or residential development.
93. SUBSTANDARD LOT -- Any lot of record that does not meet the minimum lot area, frontage, setbacks, or other dimensional standards of this Ordinance.
94. TOWN BOARD – The Board of Supervisors of Clitherall Township, Otter Tail County, Minnesota.
95. TOWNSHIP (TOWN) – Clitherall Township, Otter Tail County, Minnesota.
96. TRACT - An area of land that has defined borders.
97. USE - The purpose for which land or premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.
98. VARIANCE - A modification or variation from official controls where it is determined that, by reason of exceptional circumstances, strict enforcement of the official controls would cause practical difficulties for the property owner in using the property in a reasonable manner because of circumstances unique to the property such as lot size, shape, topography or other characteristic of the property, and when the variance from the Ordinance, together with any conditions imposed thereon, will remain in harmony with the general purpose and intent of the Ordinance and is consistent with the comprehensive plan. A variance cannot allow a land use not permitted in a zoning district.
99. WALL SIGN – A sign attached essentially parallel to and extending not more than 24 inches from the wall of a building with no copy on the sides or edges. This includes painted signs, cabinet signs and signs on a mansard.
100. WINDOW SIGN – A sign installed inside a window and intended to be viewed from the outside.
101. YARD - Any space in the same lot with a building open and unobstructed from the ground to the sky.
102. YARD, FRONT - A yard extending across the front of the lot between the inner side yard lines and lying between the front line of the lot and the nearest line of the building.
103. YARD, REAR - An open space unoccupied except for accessory buildings, on the same lot with a building, between the rear lines of the building and the rear line of the lot, and extending the full width of the lot.
104. YARD, SIDE - An open unoccupied space, on the same lot with a building, between the building and the side line of the lot, and extending from the front lot line to the rear of the back yard.
105. ZONING ADMINISTRATOR -- The person appointed by the Town Board to carry out the role and duties of the zoning administrator as identified in this Ordinance and as

may otherwise be assigned by the Town Board.

106. ZONING DISTRICT – An area within the limits of the zoning jurisdiction for which the regulations and requirements governing use, height and bulk of structures and premises are uniform.
107. ZONING MAP – The areas comprising the zoning districts and boundaries of said districts, as shown upon the map adopted by the Town Board and which is incorporated in and made part of this Ordinance. Said map, as it may be amended, shall constitute the official Clitherall Township Zoning Map.
108. ZONING ORDINANCE (ORDINANCE) – This Clitherall Township Zoning Ordinance, including any amendment made hereto.

**B. RULES OF INTERPRETATION:**

The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

1. The object of all interpretation and construction of this Ordinance is to ascertain and effectuate the intention of the Town Board;
2. The singular includes the plural, and the plural the singular;
3. The present tense includes the past and future tenses, and the future the present;
4. The word “shall” is mandatory and the word “may” is permissive;
5. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be constructed as set forth in such definition. Any question as to the meaning of a word or term used in this Ordinance, or of the location of a zoning district boundary, shall be determined by the Board of Appeals and Adjustments;
6. All measured distances expressed in feet shall be to the nearest 1/10 of a foot;
7. If a use is not listed as permitted in a zoning district, it is not allowed in the district unless the Town Board determines it is a substantially similar use as provided in this Ordinance;
8. General words are construed to be restricted in their meaning by preceding particular words;
9. This Ordinance is to be construed, to the greatest extent possible, to give effect to all of its provisions;
10. When, within this Ordinance, a general provision conflicts with a specific provision, the two shall be construed so as to give effect to both, but if they are irreconcilable, the specific provision shall prevail;
11. The references made herein to statutes, rules, regulations, or ordinances of the

state or county shall automatically include any amendments made thereto without further action by the Town Board. Furthermore, such references shall serve to incorporate those statutes, rules, regulations, or ordinances by reference to the extent necessary to achieve the intent and purposes of this Ordinance. However, such incorporations are intended only to give effect to this Ordinance and are not intended to make the Township responsible for the administration or enforcement of the statutes, rules, regulations, or ordinances being referenced; and

12. The listing of examples to further explain a term, concept, requirement, or process is not intended to be, and shall not be interpreted as, an exclusive listing. Unless the context clearly indicates otherwise, such listings are intended to be explanative without being exclusive or limited. The exception to this general rule of interpretation is the listing of uses allowed in a district, which is intended to be limited to only those uses and the uses the Town Board finds to be substantially similar as provided in this Ordinance.

**C. APPENDICES:**

The appendices attached to this Ordinance include specifications, standards, and requirements adopted by the Town Board separately from this Ordinance and are being attached hereto solely for the ease of reference. An amendment to any appended document does not constitute an amendment to this Ordinance is, therefore, not subject to the zoning ordinance amendment procedure. The Town Board shall act separately from this Ordinance to make any such amendments and shall replace the appended documents as needed to ensure the most current version of the document is appended to this Ordinance.

### **SECTION III. CLASSIFICATION OF DISTRICTS**

#### **A. ZONING DISTRICTS ESTABLISHED:**

For the purpose of this Ordinance, Clitherall Township is hereby divided into the following primary and overlay zoning districts:

1. "A" - Agricultural District.
2. "R" - Residential District.
3. "C" – Commercial District.
4. "S" - Shoreland Overlay District
5. "CL" – Closed Landfill Overlay District

#### **B. ZONING MAP:**

An official zoning map, which shows the location and boundaries of the zoning districts established herein, is hereby adopted and incorporated herein by reference. The zoning map is on file with the Town Clerk and reflects the above-listed districts. The zoning map shall be available for public inspection during regular office hours, if any, and at such other reasonable times upon request.

#### **C. ALLOWED USES:**

Only those uses specifically listed in this Ordinance as being allowed within a particular district as a permitted, conditional, interim, or accessory use may occur within that district. All other uses, except those expressly found by the Town Board to be substantially similar to a listed use allowed in the district, are prohibited within the district. No use shall be considered substantially similar to an allowed use unless the Town Board acts at a meeting to find the specific use is substantially similar to an allowed use in the same district. Uses allowed on lots located within the Shoreland Overlay District are further restricted by the regulations contained with the Shoreland Management Ordinance of Otter Tail County. Uses on lots located within the Closed Landfill Overlay District are further restricted by the plans and restrictions established by the Minnesota Pollution control Agency and any applicable laws. No use allowed within the Township shall be established or expanded without first obtaining all required permits and complying with all applicable standards and regulations set out in this Ordinance and all other Township ordinances.

#### **D. USES ALLOWED BY STATUTE:**

The legislature has adopted various provisions by statute requiring local governments to treat certain uses as permitted or conditional uses within their respective jurisdictions for the purposes of zoning regulations. Notwithstanding the general prohibition contained herein of uses not expressly allowed by this Ordinance, this Ordinance shall be interpreted as allowing those uses the legislature expressly requires the Township to allow. Such uses shall be classified as provided in the legislative mandate and shall only be allowed in those areas described in the applicable statute, and then only to the extent and scope as prescribed in the statute. For example, Minnesota Statute, section 462.357, subdivision 7 requires a licensed day care facility serving twelve or fewer persons to be considered a permitted single family

residential use of property. As such, this Ordinance shall be interpreted as allowing that specific use as a permitted residential use, but only up to a capacity of twelve persons. A proposed use that exceeds the scope described in the statute shall not be allowed unless the expanded use is expressly allowed in the particular zoning district by this Ordinance. Furthermore, if the statute indicates the use is to be allowed as a conditional use, the use may only occur upon the submission of an application and receipt of a conditional use permit from the Township. All mandated uses shall obtain a land use permit and all other permits and permissions as required by this Ordinance and all other applicable laws.

**E. SUBSTANTIALLY SIMILAR USES:**

Only those uses expressly allowed by this Ordinance for a particular zoning district may occur in that district. If an owner proposes to undertake a use the owner believes is substantially similar to a use expressly allowed by this Ordinance in the same zoning district, that person may submit an application to the Township to seek a determination that the use is allowed in the particular district as being substantially similar to the expressly allowed use. Such application shall be on the form supplied by the Township and it must fully explain the proposed use and how it is similar to the allowed use. The Town Board shall act on complete applications to determine whether the proposed use is substantially similar to an allowed use in the same district. If the Town Board does find the proposed use is substantially similar, it shall also determine whether the use shall be deemed a permitted, interim, conditional, or accessory use for the purpose of this Ordinance. The owner must then apply for any required permits based on the Town Board's classification of the use and any other applicable regulations. The Town Board shall maintain a record of all uses it expressly finds to be substantially similar and will make a good faith effort to include those uses in the Ordinance the next time it is amended. If the Town Board finds the proposed use is not substantially similar to an allowed use, the owner may submit a separate application to seek an amendment to the text of this Ordinance to expressly allow the use within a district.

## SECTION IV. AGRICULTURAL DISTRICT

### A. PURPOSE:

The purpose of the Agricultural District is to provide a district whose primary purpose is to maintain, conserve, and enhance agriculture land while providing suitable areas of low-density, single-family dwellings.

### B. PERMITTED USES:

The following uses are allowed in the Agricultural District without the issuance of a conditional use permit or an interim use permit, but a land use permit may be required:

1. Agriculture uses.
2. Feedlots.
3. Farm buildings.
4. Farm drainage structures.
5. Greenhouse or nursery.
6. Temporary or seasonal roadside stands for sale of agricultural products.
7. Class A home occupations.
8. Class B home occupations.
9. Public parks.
10. Single-family dwellings.
11. Government facilities.
12. Excavations.
13. Essential services.
14. One multi-family dwelling or two single-family dwellings (which may be mobile homes) provided they are for the purpose of the operation of a farm on the same property.
15. Remodeling of any of the structures allowed above.

### C. INTERIM USES:

The following uses are allowed in the Agricultural District with the issuance of an interim use permit by the Town Board in accordance with the provisions of this Ordinance:

1. Mining operations.
2. Additional farm dwelling.

### D. CONDITIONAL USES:

The following uses may be allowed in the Agricultural District with the issuance of a conditional use permit by the Town Board in accordance with the provisions of this Ordinance:

1. Commercial grain storage and drying.
2. Agriculture-oriented businesses.
3. Livestock sales barns.
4. Livestock transfer stations.
5. Cemeteries.
6. Commercial kennel.
7. Group camps.

8. Communication towers.
9. Duplexes.
10. Multiple-family residential dwellings
11. Day care facilities.
12. Light industry.
13. Repair shops.
14. Outdoor recreation facilities.
15. Shooting preserves.
16. Solid waste transfer stations.
17. Salvage yards.
18. Religious facilities.
19. Additional or larger signs than what is permitted by this Ordinance.

**E. ACCESSORY USES AND STRUCTURES:**

The following uses and structures are allowed within the Agricultural District without the issuance of a conditional use permit or an interim use permit, but a land use permit may be required:

1. A subordinate building or use which is incidental to and customarily connected with the principal building or use and which is located on the same lot with such principal building or use.
2. Recreational facilities which serve the residents of the principal use on the same property.
3. Operation and storage of vehicles, equipment, and machinery which is incidental to the permitted principal use on the property.

**F. DIMENSIONAL REQUIREMENTS:**

1. Structures shall be set back from the road right-of-way no less than forty (40) feet.
2. Minimum Lot Size
  - a. Single-family residential dwellings and duplexes, 2.5 acres of buildable land per dwelling.
  - b. Multiple-family residential dwellings, 5 acres for first two units plus 2.5 acres for each additional unit or such additional amount determined by the Town Board to be necessary to assure proper development.
  - c. Commercial and Industrial Uses, a minimum of 5 acres or such additional amounts as determined by the Town Board to be necessary to assure proper development.
  - d. In areas regulated by the Otter Tail County Shoreland Management Ordinance, the minimum lot size shall be the same as that set by the Shoreland Management Ordinance.



## **SECTION V. RESIDENTIAL DISTRICT**

### **A. PURPOSE:**

The purpose of the Residential District is to provide a district whose primary purpose is to provide for the maintenance and development of single-family dwellings.

### **B. PERMITTED USES:**

The following uses are allowed in the Residential District without the issuance of a conditional use permit or an interim use permit, but a land use permit may be required:

1. Single-family residential dwellings.
2. Class A home occupations.
3. Excavations.
4. Essential services.
5. Residential subdivisions.

### **C. INTERIM USES:**

The following uses are allowed in the Residential District with the issuance of an interim use permit by the Town Board in accordance with the provisions of this Ordinance:

1. Class B home occupations.

### **D. CONDITIONAL USES:**

The following uses may be allowed in the Residential District with the issuance of a conditional use permit by the Town Board in accordance with the provisions of this Ordinance:

1. Duplexes.
2. Public parks.
3. Day Care Facility

### **E. ACCESSORY USES AND STRUCTURES:**

The following uses and structures are allowed within the Residential District without the issuance of a conditional use permit or an interim use permit, but a land use permit may be required:

1. A subordinate building or use which is incidental to and customarily connected with the principal building or use and which is located on the same lot with such principal building or use.
2. Recreational facilities which serve the residents of the principal use on the same property.

### **F. DIMENSIONAL REQUIREMENTS:**

1. Structures shall be set back from the road right-of-way no less than forty (40) feet.

2. Minimum Lot Size

- a. Single family residential dwellings and duplexes, one acre of buildable land per dwelling.
- b. In areas regulated by the Otter Tail County Shoreland Management Ordinance, the minimum lot size shall be the same as that set by the Shoreland Management Ordinance.

## SECTION VI. COMMERCIAL DISTRICT

### A. PURPOSE:

The purpose of the Commercial District is to provide a district whose primary purpose is to provide for the maintenance and development of commercial and industrial uses.

### B. PERMITTED USES:

The following uses are allowed in the Commercial District without the issuance of a conditional use permit or an interim use permit, but a land use permit may be required:

1. Single-family residential dwellings.
2. Class A home occupations.
3. Commercial subdivisions.
4. Excavations.
5. Feedlots containing up to 50 animal units.
6. Essential services.

### C. INTERIM USES:

The following uses are allowed in the Commercial District with the issuance of an interim use permit by the Town Board in accordance with the provisions of this Ordinance:

1. Feedlots containing between 51 and 150 animal units.
2. Class B home occupation.

### D. CONDITIONAL USES:

The following uses may be allowed in the Commercial District with the issuance of a conditional use permit by the Town Board in accordance with the provisions of this Ordinance:

1. Communication towers.
2. Agriculture-oriented businesses.
3. Light industry.
4. Commercial businesses.
5. Retail businesses.
6. Greenhouses and nurseries.
7. Religious facilities.
8. Government facilities.
9. Repair shops.
10. Additional or larger signs than what is permitted by this Ordinance.

### E. ACCESSORY USES:

The following uses and structures are allowed within the Commercial District without the issuance of a conditional use permit or an interim use permit, but a land use permit may be required:

1. A subordinate building or use which is incidental to and customarily connected with the principal building or use and which is located on the same lot with such principal building or use.
2. Recreational facilities which serve the residents of the principal use on the same property.
3. Temporary construction structures used to support the construction of the principal structure on the same property and that must be removed upon completion of construction.

**F. DIMENSIONAL REQUIREMENTS:**

1. Structures shall be set back from the road right-of-way no less than forty (40) feet.
2. Minimum Lot Size
  - a. Single-family residential dwellings and duplexes, 2.5 acres of buildable land per dwelling.
  - b. Multiple-family residential dwellings, 5 acres for first two units plus 2.5 acres for each additional unit or such additional amount determined by the Town Board to be necessary to assure proper development.
  - c. Commercial and Industrial Uses, a minimum of 5 acres or such additional amounts as determined by the Town Board to be necessary to assure proper development.
  - d. In areas regulated by the Otter Tail County Shoreland Management Ordinance, the minimum lot size shall be the same as that set by the Shoreland Management Ordinance.

## **SECTION VII. SHORELAND OVERLAY DISTRICT**

### **A. PURPOSE:**

The purpose of the Shoreland Overlay District is to preserve and enhance shoreland areas and to provide management policies reasonably consistent with the classification of the lakes within the Township.

### **B. APPLICABLE REGULATIONS:**

Those areas of the Township which are classified as shorelands by the County are subject to the regulations of this Ordinance applicable to underlying zoning district and the regulations contained in the Shoreland Management Ordinance of Otter Tail County. If this Ordinance requires a permit from the Township for a use or structure in the underlying zoning district such a permit must be obtained even if the County also requires a permit for the use or structure under its Shoreland Management Ordinance.

### **C. ALLOWED USES:**

Within the Shoreland Overlay District only those uses allowed in the underlying zoning district established by this Ordinance and in the shoreland district established in the Shoreland Management Ordinance of Otter Tail County shall be allowed, and then only upon obtaining all required permits.

## SECTION VIII. CLOSED LANDFILL OVERLAY DISTRICT

### A. PURPOSE:

The Closed Landfill Overlay District (“CL Overlay District”) is intended to protect the public health, safety and general welfare of the community by informing the public about the risks to current and future land owners regarding the use of land within the Minnesota Pollution Control Agency (“MPCA”) identified Methane Gas Area of Concern (“MGAOC”) and Groundwater Area of Concern (“GWAOC”) associated with closed mixed solid waste (“MSW”) landfills, as identified on the Long-Term Care List of State-Permitted, Mixed Municipal Solid Waste Closed Landfills under Minnesota Statutes, section 115B.412, subdivision 9. Methane gas is an odorless gas produced as waste decomposes which may be explosive in confined spaces such as basements. Furthermore, establishment of the CL Overlay District is also intended to comply with the Township’s obligation to be consistent with the Minnesota Landfill Clean Up Program (Minnesota Statutes, sections 115B.39 to 115B.445) and the related land use plan and regulations established by the MPCA for the area around the closed landfill. The MPCA is required to develop and provide certain information to local units of government related to some landfill facilities. To the extent the Township receives such information, the owners of the lots within the CL Overlay District may request a copy of the information. Nothing in this Division shall be construed or interpreted as the Township assuming responsibility for the administration or enforcement of the Minnesota Landfill Clean Up Program or of the MPCA’s land use plan or regulations.

### B. SCOPE AND CLASSIFICATION:

The CL Overlay District is established for those lots located in whole or in part within the MPCA identified MGAOC and GWAOC associated with closed MSW landfills, as identified on the Long-Term Care List of State-Permitted, Mixed Municipal Solid Waste Closed Landfills established pursuant to Minnesota Statutes, section 115B.412, subdivision 9. The Battle Lake Landfill (“Landfill”) is currently the only MSW landfill in the Township identified on the list. The CL Overlay District shall overlay the zoning districts established by this Ordinance so that any parcel of land within the CL Overlay District shall also lie in an established zoning district. All uses shall meet the requirements of the regulations for the zoning district in which such use is located, and, in addition, such uses shall be required to meet the requirements of this overlay district. No permits may be issued, and no approvals may be made, until such necessary requirements of this Division have been met.

### C. STANDARDS:

Lots located within the CL Overlay District are subject to the requirements of the Minnesota Landfill Clean Up Program (Minnesota Statutes, sections 115B.39 to 115B.445, as amended), the land use plan developed by the MPCA for the closed landfill area, the requirements of this Division, and the requirements of the applicable underlying zoning district. The following standards shall apply to lots within the CL Overlay District:

1. Notice to MPCA. An applicant for any permit or other zoning permission within the CL Overlay District shall be responsible for notifying the MPCA of its request prior to submitting its application to the Township. An application submitted to the Township shall be deemed incomplete and shall not be processed unless it contains information indicating the applicant notified the MPCA about the proposed use or structure that is subject of the application.

2. Compliance. The use of land and the construction of, or improvement to, any structures contained on land within the CL Overlay District are limited to, and shall conform with, the most restrictive requirements of this Ordinance, the Minnesota Closed Landfill Program, and the closed landfill use plan for the Landfill developed by the MPCA. Owners within the GWAOC are responsible for ensuring the proposed use does not alter normal groundwater flows or accelerate the movement of contaminated groundwater. Any proposed use within the GWAOC involving the establishment or expansion of a drinking water supply shall be required to have a water test performed by an independent state-approved laboratory. The test results must be included in the application submitted to the Township and the proposed use or structure shall not be approved unless the test indicates the state drinking water levels are met.
3. MPCA Controlled Property. If the land within the CL Overlay District is owned by the MPCA, or is subject to a remediation easement, covenant, or binding agreement with the MPCA, no development shall occur on any portion of such land that is within the identified MGAOC or the GWAOC.
4. Certain Uses Prohibited. The Township shall not issue a permit or other zoning approval for any use prohibited by the MPCA land use plan developed for the area. The Township shall also not issue a permit or other zoning approval for any use that, if allowed, would disturb the integrity of the final cover, liners, any other components of any containment system, or the function of any monitoring systems unless the use is found necessary in accordance with Minnesota Statutes, section 115B.412, subdivision 9.

## SECTION IX. GENERAL REGULATIONS AND PERFORMANCE STANDARDS

### A. PUBLIC NUISANCES:

The uses, conditions, or circumstances listed in this section threaten the health, safety, and welfare of the community and are therefore deemed a public nuisance. It is prohibited under this Ordinance for any person to, through their actions or failure to act, create, maintain, allow to exist, or exacerbate any use, condition, or circumstance designated a public nuisance in this Part.

1. All Districts. The following are prohibited as a public nuisance in all zoning districts within the Township.
  - a. Planting trees along public road right-of-ways can interfere with the maintenance of the road, damage drainage structures, obstruct sight distances, and jeopardize the safety of the traveling public. Therefore, except for plantings done by a public road authority, the planting of one or more trees within 33 feet from the center of a town road, or within 100 feet from the center of an intersection of a Township road and another public road constitutes a public nuisance as such plantings can interfere with maintenance activities and safe travel through intersections.
  - b. Unless otherwise provided in law, the following signs are prohibited:
    - (1) Signs placed within, or that overhang, a town road right-of-way, except for traffic control signs and devices;
    - (2) Signs located within 100 feet of the center of the intersection of public roads, except for traffic control signs and devices; and
    - (3) Signs located within a public right-of-way, except traffic control signs.
2. Residential and Commercial Districts. The following are prohibited as a public nuisance within the Residential District and the Commercial District of the Township.
  - a. No structure, sign, building, vehicle, machine, or any other piece or article of personal property may be abandoned on real property within the Residential District or Commercial District. Also, within these districts no structure, sign, building, vehicle, machine, or other piece or article of personal property shall be permitted in any public or private place which has, due to disuse or neglect, become unsightly. Such displays constitute a public nuisance. Non-use for a period of twelve (12) months shall be presumptive evidence of one's intention to abandon such property and of non-compliance with this Section. The first responsibility for compliance with this provision lies with the occupant of lands and buildings in use. However, the foregoing shall not be construed, in any way, to relieve the owner of record from responsibility for compliance with this Section in the event of non-compliance by an occupant or with respect to vacant land.
  - b. The emission of odorous matter in such quantity as to be offensive shall not be permitted. The emission of odor by any use shall be in compliance with and regulated by the State of Minnesota pollution control standards, as



subsequently expanded, modified or amended.

- c. In the Residential District, all personal property shall be stored within a building or fully screened so as not to be visible from major highways, county, and township roads, except for the following: recreational equipment, construction and landscaping materials and equipment currently (within a period of the past twelve (12) months) being used on the premises, off-street parking of licensed and operable passenger automobiles and pickup trucks.
  - d. In the Commercial District, exterior storage of personal or business property along roads is permitted provided any such property is so stored for purposes relating to the principal use of the property allowed by this Ordinance and such storage will not be contrary to the intent and purpose of this Ordinance. Any such property must be suitably screened from public view.
3. Enforcement. An owner or occupant who creates, maintains, allows to exist, or exacerbates a use or condition classified as a public nuisance under this Ordinance shall be required to correct such condition upon written notice from the Township. If the owner or occupant fails to correct the condition within the time indicated in the written notice, the Township may take action to correct the condition. If the Township determines the use or condition creates an immediate threat to public safety such that there is not sufficient time to provide written notice, the Township will make a good faith attempt to contact the owner or occupant to correct the situation, but the Township may act immediately to address the public safety concerns as it determines is appropriate. The owner and occupant shall be responsible for fully reimbursing the Township for all costs it incurs to correct the condition and to repair any damage caused to a Township right-of-way resulting from the condition or action. The Township shall provide the owner or occupant a written statement of the costs incurred and, if the owner or occupant fails to fully reimburse the Township, the Township may collect all such costs as an unpaid service charge on the property pursuant to Minnesota Statutes, section 366.012 or may pursue such other methods of recovering its costs as are available to it under law. The Township may also, in its discretion, bring an action for abatement of the nuisance and charge the costs of the action and abatement to the tax rolls for that property.

**B. SIGNS:**

1. Compliance. Any sign hereafter erected or maintained shall conform to the provisions of this Section.
2. Purpose and Intent. The purpose and intent of this Section is to maintain, enhance and improve the aesthetic environment of the Township by preventing visual clutter that is harmful to the appearance of the community; improve the visual appearance of the Township while providing for effective means of communication, consistent with constitutional guarantees and the Township's goals of public safety and aesthetics; and to provide for the safety of the traveling public by limiting distractions, hazards and obstructions. This will be accomplished by the regulation of the display, erection and use of signs. No part of this Section shall be construed to favor commercial speech over non-commercial speech. To the extent that any provision of this Section is ambiguous, the provision shall be interpreted not to regulate on the basis of speech content and the interpretation resulting in the least restriction on the

content of the sign's message shall prevail.

3. Message Substitution. For every type of sign permitted by this Section, any non-commercial message may be legally substituted.
4. Use and Location Regulations. The following types of signs, and no others shall be permitted. All signs must be either on-premise signs or signs that have a non-commercial message. No off-premise signs are permitted.
  - a. In all zoning districts, official traffic and road signs.
  - b. In commercial zoning districts, one directional/informational sign not to exceed nine square feet in sign area is permitted.
  - c. In all zoning districts, one non-illuminated sign for each street frontage of a construction project, not to exceed 24 square feet in sign area. Such signs may be erected 60 days prior to the beginning of construction and must be removed within 30 days following completion of construction.
  - d. In all zoning districts, one sign with a commercial message displayed in the yard of a property that is for lease or for sale that does not exceed six square feet in sign area. The sign must be removed within 15 days after the closing on the sale or lease of the property.
  - e. In all zoning districts, any number of signs that have a non-commercial message that are posted from August 1<sup>st</sup> in any general election until 10 days following the general election and 13 weeks prior to any special election until 10 days following the special election.
  - f. In all zoning districts, one identification sign per building entrance.
  - g. In residential and agricultural zoning districts, one freestanding sign not to exceed 32 square feet in sign area for non-residential and non-agricultural uses.
  - h. In residential zoning districts, one subdivision identification sign per street frontage not to exceed 48 square feet in sign area in each location.
  - i. In commercial zoning districts, one freestanding sign or wall sign per street frontage. The signs must not exceed 50 square feet in total sign area and be less than 25 feet in height. The signs must be positioned in such a way that they take into account traffic, other road signs, and viewing and sight lines from neighboring properties. Larger or additional signs may be authorized by conditional use permit.
  - j. In all zoning districts, window signs, banners, pennants and festoons.
  - k. In all zoning districts, flags. Flags on flagpoles shall not exceed 40 square feet in area. No single property shall fly more than three flags at one time. Flagpoles shall not exceed 40 feet in height. Wall-mounted flags shall be limited to one flag per property and shall not exceed 20 square feet in area.

- l. Temporary special events signs and decorations for special events, grand openings or holidays. Such signs and decorations may be erected 45 days prior to the event or holiday and must be removed within five days following the event or holiday.
- m. One sign smaller than five square feet in sign area may be posted on any parcel of land, except that such sign must display only non-commercial messages and may not be illuminated.

**C. DWELLINGS AND ACCESSORY STRUCTURES:**

- 1. Unless expressly provided otherwise in this Ordinance, no more than one residential dwelling may be located on the same lot.
- 2. An accessory structure shall not be used as a dwelling.

**D. FENCES:**

A fence is a partition, structure, wall or gate erected as a dividing marker, visual or physical barrier, or enclosure. These Standards shall apply to all districts.

- 1. Barbed wire fencing in the residential district is prohibited.
- 2. That side of the fence considered to be the face (finished side as opposed to the structural supports) shall face the abutting property.
- 3. Fences are permitted along, but not in, the road right-of-way so long as they don't create safety related issues.
- 4. Fences shall not impede the vision of the roadway from a driveway providing access to the road or impede site lines at intersections.
- 5. Non-agricultural fences that exceed six (6) feet in height are permitted with prior approval from the Town Board.
- 6. Agricultural fences are subject to the Minnesota Fence Law contained in Minnesota Statutes, chapter 344.
- 7. Fences may be placed along a property line provided no physical damage of any kind results to abutting property. Where a property line is not clearly defined, a certificate of survey may be required to establish the location of the property line prior to the installation of a fence.

**E. PRIVATE DRIVEWAYS AND FIELD APPROACHES:**

- 1. Permit Required. No driveway approach shall be constructed to connect to a Township road except by written driveway approach permit of the Town Board and compliance with the requirements of this section.

2. Application Materials. The owner requesting a driveway approach permit shall submit the following information and payments to the Township:
  - a. Legal description of the property to be served by the driveway approach;
  - b. A sketch showing the location of all current driveway approaches to the property and the proposed driveway approach. The sketch must show distances from side lines of the property and any intersection public roads; and
  - c. The permit fee and deposit established in the Township's fee schedule, which shall be submitted by separate cashier's checks or money orders.
3. Marking. The owner shall mark the proposed location of the driveway approach to aid the Township's inspection.
4. Standards, Requirements, and Restrictions. All new driveway approaches shall comply with the following standards and restrictions:
  - a. Shall be located at least 300 feet from an existing driveway approach on the same side of the road;
  - b. No horseshoe or U-shaped driveway approaches are allowed;
  - c. If required as a condition of the permit, a culvert shall be placed within the driveway approach. The size and material used for the culvert must be approved by the Township;
  - d. The owner is solely responsible for supplying all materials and for constructing the driveway approach upon issuance of a driveway access permit from the Township;
  - e. Construction of the driveway approach must not interfere with the safe use or maintenance of the road. The right-of-way must be fully restored and cleared of all excess materials and after construction ;
  - f. No obstructions to the safe use or maintenance of the road may be placed or maintained as part of the driveway approach; and
  - g. No vegetation or crops shall be planted, and no structures shall be erected, so as to interfere with vision at an intersection of a private driveway or field approach and a public road.
5. Inspection and Issuance. The Township shall review completed applications, conduct an inspection, and determine whether to approve the requested driveway approach permit. The Township may place conditions on the driveway access permits it issues. The Town Board may delegate the authority to issue driveway approach permits to the designated road supervisor. The Township may deny a permit request, or require the proposed driveway to be relocated, based on factors such as protecting the safety of the traveling public, maintaining sufficient sight distances, avoiding interferences with road maintenance activities, preserving adequate road drainage, the number of driveway approaches serving a property, and such other matters as the Township determines are relevant under the facts of

the particular situation.

6. Construction Deadline. The owner shall be required to complete the construction of an approved driveway approach within 45 days from issuance of the permit. If the owner fails to complete construction within that time, or fails to construct the driveway approach in accordance with the requirements of this Ordinance and the permit, the Township may use the deposited funds to complete or correct the driveway approach.

**F. HOME OCCUPATIONS:**

All home occupations shall conform to the following standards:

1. Conducting the home occupation shall not require alterations to the interior or exterior of the residence which substantially alters the appearance of the dwelling as a residence. However, the entrance to the space devoted to a home occupation may be within the dwelling; and
2. A home occupation at a dwelling with an on-site sewage treatment system shall only generate normal domestic household waste unless a plan for off-site disposal of the waste is approved.
3. The home occupation shall not constitute, create or increase a nuisance.
4. There shall be no outdoor display or storage of goods, equipment or materials for the home occupation.
5. Parking needs generated by the home occupation shall be provided on-site.

**G. SHOOTING PRESERVES:**

A shooting preserve is a facility on a tract of land used for the purpose of discharging firearms either in competition, hobby, or training. All rules and regulations of Federal, State, County and local agencies must be met. The facility must be operated to be consistent with the provisions of the National Rifle Association safety rules and regulations.

**H. COMMERCIAL KENNEL:**

A kennel where dogs are bred and/or sold for re-sale, individually or in litter lots, whether or not any of these animals are also kept for personal use and where the business may be a primary source of income. Commercial kennels are also places where dogs are boarded, groomed or trained for a fee. Commercial kennels must comply with all of the following standards.

1. Any outdoor structures used for the confinement, care or breeding of animals shall be setback a minimum of one hundred (100) feet from any property line and fifty (50) feet from any water supply well.
2. An individual sewage treatment system shall be installed with the capacity to handle waste and hosing from the kennel and kennel runs.

**I. EXCAVATIONS:**

1. Land Use Permit Required. No person shall undertake an excavation without first obtaining a land use permit from the Township, unless the excavation is exempt under this section.
2. Exceptions. A land use permit shall not be required for any of the following excavations:
  - a. Excavations for the building of roads, buildings, dikes, and other flood control or erosion control purposes;
  - b. Excavations involving the removal of less than 10 cubic yards of material in any 12 month period within the Residential District, provided such excavation and removal is not being done as part of a commercial business;
  - c. Excavations involving the removal of less than 50 cubic yards of material in any 12 month period within the Commercial District, provided such excavation and removal is not being done as part of a commercial business;
  - d. Excavations involving the removal of less than 100 cubic yards of material in any 12 month period within the Agricultural District, provided such excavation and removal is not being done as part of a commercial business;
  - e. Excavations, including impounding of waters, for agricultural purposes;
  - f. Excavations for structures associated with building projects for which land use permits have been issued;
  - g. An excavation occurring as part of a mining operation issued a permit by the Township under this Ordinance;
  - h. Excavation in a right-of-way or utility corridor by state, county, city, or township authorities or their contractors in connection with construction or maintenance of public improvements; and
  - i. Excavation for public utility purposes.
3. Restoration. The excavated area shall be restored upon the completion of the excavation, but in no case later than eight months from when the excavation began. As part of the required restoration, the excavated area shall be seeded with grass, or other steps taken as are acceptable to the Township, as needed to avoid erosion and runoff.

**J. MINING OPERATIONS:**

1. Interim Use Permit Required. Mining operations are only allowed within the

Agricultural District, and then only upon issuance of an interim use permit by the Township in accordance with this Ordinance. Any excavation and removal of earthen material from property for sale as part of a commercial business, or the excavation and removal from property of more than 100 cubic yards of earthen material in any 12 month period, shall constitute a mining operation and the establishment or expansion of any such operation shall require an interim use permit.

2. Application Requirements. Any person proposing to establish or expand a mining operation shall submit an application for an interim use permit that, at a minimum, contains the following information:
  - a. Name and address of person requesting the permit and owner of the property to be mined.
  - b. The exact legal property description and acreage of area to be mined.
  - c. The following maps of the entire site to include all areas.
    - (1) Map A – Existing conditions to include.
      - (a) Contour lines at reasonable intervals.
      - (b) Existing vegetation.
      - (c) Existing drainage and permanent water areas.
      - (d) Existing structures.
      - (e) Existing wells.
    - (2) Map B – Proposed operations to include.
      - (a) Structures to be erected.
      - (b) Locations of sites to be mined showing depth and amount of proposed excavation.
      - (c) Location of tailings deposits showing maximum height of deposits.
      - (d) Location of machinery to be used in the mining operation.
      - (e) Location of storage of mined materials, showing height of storage deposits.
      - (f) Location of vehicle parking.
      - (g) Location of storage of explosives.
      - (h) Erosion or sediment control structures.
      - (i) Access routes.
      - (j) A plan for dust and noise control.
      - (k) A full and adequate description of all phases of the proposed operation to include as estimate of the duration of the mining operation.
    - (3) Map C – End use plan to include.
      - (a) Final grade of proposed site showing elevations and contour lines at reasonable intervals.
      - (b) Location and type of vegetation to be replanted.
      - (c) Location and nature of any structure to be erected in relation to the end use plan.
      - (d) A soil erosion and sediment control plan.

- d. Any other information requested by the Planning Commission or Town Board.
3. Use Restrictions.
- a. The crushing, washing, refining or processing, other than the initial removal of material, may only occur to the extent allowed in the interim use permit issued for the operation.
  - b. In stone quarries, the production or manufacturing of veneer stone sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stockpiling of such products on the site may only occur to the extent allowed in the interim use permit issued for the operation.
4. Setbacks. All extraction and material storage areas shall be setback at least one thousand (1,000) feet or more from dwellings and residences and at least two hundred (200) feet from boundary lines and road right-of-ways.
5. Performance Standards. The following performance standards apply to, and must be complied with by, mining operations. The Town Board may impose additional performance standards as part of the interim use or land use permit issued for the mining operation.
- a. General Provisions.
    - (1) Weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to prevent seeding on adjoining property.
    - (2) All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize, as far as it is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity.
  - b. Water Resources.
    - (1) The mining operation shall not be allowed to interfere with surface waste drainage beyond the boundaries of the mining operation.
    - (2) The mining operation shall not adversely affect the quality of surface or subsurface water resources.
    - (3) Surface water originating outside and passing through the mining district shall, as its point of departure from the mining site, be of equal quality to the water at the point where it enters the mining site. The mining operator shall perform any water treatment necessary to comply with this provision, such as culverts, berms, etc.
  - c. Safety Fencing. Any mining operation adjacent to a residential zone, or within three hundred (300) feet of two (2) or more residential structures, shall be bound by the following standards:



- (1) Where collections of water occur that are one and one-half (1.5) feet or more in depth existing for any period of a least one (1) month, and occupy an area of seven hundred (700) square feet or more, all access to such collections of water shall be barred by a fence or some similarly effective barrier such as a snow fence of a least four (4) feet in height.
  - (2) In locations where slopes occur that are steeper than one (1) foot vertical to three (3) feet horizontal existing for a period of one (1) month or more, access to such slope shall be barred by a fence or some similarly effective barrier such as a snow fence of at least four (4) feet in height.
- d. Mining Access Roads. The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of public road in view so that any turns onto the public road can be completed with a margin of safety.
  - e. Screening Barrier. To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier may be maintained between the mining site and adjacent residential and commercial properties. A screening barrier shall also be maintained between the mining site and any public road within five hundred (500) feet to any mining or processing operations. The screening barrier shall be planted with a type of fast growing trees such as green ash. Existing trees and ground cover along a public frontage road shall be preserved, maintained (and supplemented) for the depth of the roadside setback except where traffic safety requires cutting and trimming.
  - f. Setback. Processing of minerals shall not be conducted closer than one hundred (100) feet to the property line nor closer than five hundred (500) feet to any residential or commercial structures located prior to commencement of processing operations without the written consent of all owners and residents of said structure. Mining operations shall not be conducted closer than thirty (30) feet to the boundary of any zone where such operations are not permitted, nor shall such production or processing be conducted closer than thirty (30) feet to the boundary of any adjoining property unless it is first secured in writing. Mining operations shall not be conducted closer than thirty (30) feet to the right-of-way line of any existing or platted street, road or highway, except that excavating may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway.
  - g. Appearance. All buildings, structures and plants used for the production or processing of sand and gravel shall be maintained in such a manner as is practicable and according to acceptable industrial practice as to assure that such buildings, structures and plants will not become dangerously dilapidated.
  - h. Erosion Control. All materials to be used for erosion control such as seed mixtures and so forth are to be approved by the Township. Culverts, berms, etc. may also be required for erosion control.
  - i. Dust and Dirt. All equipment used for mining operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is

practicable, dust conditions which are injurious or substantially annoying to persons living within six hundred (600) feet of the mining operations lot line.

6. Land rehabilitation. All mining sites shall be rehabilitated immediately after mining operations cease. Rehabilitation shall be complete within one (1) calendar year after operation ceases. The following standards shall apply.
  - a. Within a period of three (3) months after the termination of a mining operation, or within three (3) months after the abandonment of such operation for a period of six (6) months, or within three (3) months after expiration of a mining permit, all buildings, structures and plants incidental to such operation shall be dismantled and removed by, and at the expense of, the mining operator last operating such building, structures and plants.
  - b. The peaks and depressions of the area shall be graded and backfilled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding and which will minimize erosion due to rainfall.
  - c. Banks of all excavations shall be sloped at a rate which shall not be less than three (3) feet horizontal to one (1) foot vertical, unless a plan has been submitted which indicates special consideration is needed, and if said plan, with special consideration, has been approved by the Township.
  - d. Reclaimed areas shall be sodded or surfaced with soil of a quality at least equal to the topsoil of the land area immediately surrounding and to a depth of at least three (3) inches. Such required topsoil shall be planted with legumes and grasses, trees and shrubs may also be planted but not as a substitute for legumes and grasses. Such planting shall adequately retard soil erosion.
  - e. Excavations completed to a water producing depth need not be backfilled if the water depth is at least ten (10) feet and if banks shall be sloped to the water in at a slope no greater than three (3) feet horizontal to one (1) foot vertical.
  - f. The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site upon which mining operations have been conducted. The finished plan shall restore that mining site to a condition whereby it can be utilized for the type of land use proposed to occupy the site after mining operations cease.
  - g. The owner shall, after completing the reclamation project, notify the Township. Upon notification, the Zoning Administrator shall inspect the site to determine if it is in accordance with the approved reclamation plan. If the site is not in accordance with the reclamation plan the Township shall notify the owner of its deficiencies and the owner shall correct the deficiencies. If the site is in accordance with the plan, the Township shall issue a letter of acceptance of the site to the owner.
7. Performance Bond. The Township Planning Commission and the Town Board, before giving approval for a mining operation, may require a cash deposit, certified check, bond or other security in an amount, and with conditions, satisfactory to the

Town Board. The Town Board may, but is not required to, draw upon the security as it determines is appropriate to complete the reclamation of the land if the owner fails to fully restore the land.

**K. WELLHEAD PROTECTION:**

A portion of the Drinking Water Supply Management Area identified for the City of Battle Lake's public drinking wells extends into the Township. The City's Wellhead Protection Plan developed for the area is designed to reduce or eliminate potential contamination to the drinking water aquifer. In order to help ensure the identified goals of protecting the aquifer and the City's wells, the Township shall require an applicant for any land use permit, interim use permit, conditional use permit, or variance from within the designated area that involves a potential contamination source to include with the application a completed environmental checklist. The completed environmental checklist will aid in identifying potential sources of contamination and, when such potential sources are identified, the Township will impose such conditions and restrictions on the permits it issues to reduce or eliminate the impacts from such sources. The Township will endeavor to work closely with the City in evaluating potential contamination sources within the designated area.

**L. STORMWATER :**

1. The following standards apply with the Residential District and Commercial District:
  - a. When possible, existing natural drainageways, and vegetated soils surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public ditches.
  - b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
  - c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.
2. The expansion of existing, and the creation of new, impervious surfaces on a lot shall not exceed the maximum lot coverages set out below:
  - a. Commercial District – Maximum impervious surface lot coverage of 40%; and
  - b. Residential District – Maximum impervious surface lot coverage of 40%.

## **SECTION X. SUBDIVISION REGULATIONS**

### **A. RESTRICTIONS:**

No subdivision of land in the Township valid or be eligible for recording in the office of the County Recorder, and no lot within the subdivision shall be sold unless it is done in accordance with the laws of the State of Minnesota, the Subdivision Controls Ordinance of Otter Tail County, and this Ordinance. No subdivision of a parcel may occur unless all of the resulting parcels satisfy the requirements of this Ordinance including, but not limited to, the minimum required lot or parcel size as set forth in each district, and the applicant must be able to demonstrate that the subdivided parcels can reasonably be used for the intended purpose, including public road access and private sewer and water systems.

### **B. TOWNSHIP APPROVAL REQUIRED:**

Pursuant to Minnesota Statutes, section 505.09, subdivision 1a, the County is prohibited from approving a plat of land within the Township unless the Town Board first approves the plat and the laying of the streets and other public ways shown on the plat. The Township's approval shall be endorsed on the plat and signed by the chair of the Town Board. For the purposes of this Ordinance, the following subdivisions shall be subject to the requirements of this Section and shall require Township approval: (1) any subdivision requiring approval by the County pursuant to its Subdivision Controls Ordinance; (2) any subdivision proposing to dedicate any roads, drainage facilities (other than drainage and utility easements), or parks to the public; and (3) any plat of land subject to Minnesota Statutes, chapter 505. All such subdivisions shall be referred to herein as a "Subdivision".

### **C. SCOPE:**

The subdivision regulations contained in this Section apply to any subdivision of land which creates one or more additional lots, except to the extent the subdivision is exempt from local approval under Minnesota Statutes, section 462.358, subdivision 4b(b) or is exempt under the County's Subdivision Controls Ordinance. All Subdivisions shall be platted unless the particular Subdivision satisfies the metes and bounds standards set out in Section VII of the County's Subdivision Controls Ordinance. In order to promote consistency between the Township and County subdivision review procedures and requirements, the Township has elected to adopt certain provisions of the County's Subdivision Controls Ordinance by reference. Those sections of the County's Subdivision Controls Ordinance referenced in this Section are hereby adopted and incorporated herein by reference, together with any application definitions and any other sections referenced in the sections expressly adopted herein.

### **D. MINOR SUBDIVISIONS:**

The Township may grant preliminary and final plat approvals at the same time as part of single process for Subdivisions with three or few lots and that do not involve the dedication of any new roads. All other Subdivisions must seek preliminary plat approval and final plat approval as part of separate procedures as provided in this Section.

### **E. ROAD REQUIREMENTS:**

New roads dedicated in a subdivision to the public shall have a right-of-way width of no less than sixty-six feet, have a surface width of no less than thirty-six feet, and shall otherwise comply, at

a minimum, with the minimum road standards established in Section V and Appendix III of the County's Subdivision Controls Ordinance. For ease of reference, the standards are attached hereto as an appendix and the attached reflect the stricter standards imposed by the Township. The Town Board may prescribe stricter road standards in its approvals of a Subdivision and as specified in the development agreement entered into for the Subdivision. Regardless of whether a development agreement is entered into for the particular Subdivision, the developer shall not begin construction of any roads within the Subdivision without first meeting with the Town Board specifically regarding the road specifications and receiving the Town Board's approval. If a development agreement is prepared for the Subdivision, the Town Board's approval of the road specifications shall be provided as part of the agreement.

**F. DEVELOPMENT AGREEMENT:**

Unless expressly waived by the Town Board in its approvals, the approval of a Subdivision is conditioned on the developer entering into a development agreement with the Township in a form acceptable to the Town Board. The Township shall draft the development agreement and it must be fully executed by the parties before the final plat is recorded in the office of the County Recorder. The Township shall, at the developer's expense, record the development agreement against the property and the requirements within the agreement shall, to the extent applicable, constitute covenants that run with the property. The Town Board may agree, as part of the development agreement, to road specifications that are different than those required by this Ordinance if the Town Board determines that such alterations are appropriate given the condition of the land and the anticipated use of the road.

**G. PROFESSIONAL CONSULTATION:**

The Town Board may, at the developer's expense, retain or call upon professionals for assistance in reviewing, processing, and determining compliance of subdivision requests with this Ordinance and the terms of the development agreement. Such services may include, but are not limited to, having a consulting engineer review plans and specifications of the proposed subdivision, having the consulting engineer inspect the construction and completion of public improvements, and having the town attorney review and draft documents related to processing the requested subdivision.

**H. REIMBURSEMENT OF COSTS:**

The developer shall be responsible for fully reimbursing the Township for all professional costs it incurs to process a proposed subdivision and to administer and enforce the development agreement applicable to the subdivision. The Township may require the developer to escrow funds with the Township to pay all anticipated professional costs. Such escrow is in addition to any financial security the Township may require the developer to submit to the Township to secure the proper construction of any proposed public improvements within the Subdivision.

**I. PRE-APPLICATION MEETING:**

Anyone proposing to develop a Subdivision that proposes to dedicate to the public a new road or that contains more than three lots is strongly encouraged to notify the Township to arrange a meeting to review the proposed subdivision before submitting an application for preliminary plat approval. The meeting will give the developer an opportunity to discuss the requirements of these regulations and to identify any initial concerns the Township may have that can be addressed before submitting a formal application.

**J. PRELIMINARY PLAT APPROVAL:**

An application for preliminary plat approval for a Subdivision shall be submitted, and will be processed, in accordance with this Section.

1. Application. The developer shall submit an application for preliminary plat approval to the Township that contains all the information required on the Township's application form. The preliminary plat document shall contain the information, and comply with the design features and standards, required in Sections IV and V of the County's Subdivision Controls Ordinance. At least ten copies of the preliminary plat application materials shall be submitted to the Township together with the applicable fee and escrow (if required). Complete applications shall be forwarded to the Planning Commission for a hearing.
2. Hearing. At least ten days' published notice shall be provided of a public hearing to be held by the Planning Commission to hear, consider, and act on a recommendation to the Town Board regarding the application for preliminary plat approval. The Planning Commission shall act to forward the application to the Town Board with its recommendation regarding approval of the preliminary plat. Such recommendation shall identify any conditions the Planning Commission recommends be imposed on the preliminary plat if approved by the Town Board.
3. Town Board Action. The Town Board shall review the application and the Planning Commission's recommendation and act on the application for preliminary plat approval. The Town Board may impose conditions on its approval of a preliminary plat and all such conditions must be satisfied before the developer is eligible to submit an application for final plat approval. Approval of the preliminary plat shall not constitute acceptance of the final plat and the approval shall lapse if the developer does not apply for final plat approval within one year of receiving preliminary approval. The developer may apply to the Town Board in writing to seek an extension of the one-year period for submitting the application for final plat approval.

**K. FINAL PLAT APPROVAL:**

An application for final plat approval for a Subdivision shall be submitted, and will be processed, in accordance with this Section.

1. Application. Once all applicable conditions of the preliminary plat approval have been satisfied, the developer shall submit an application for final plat approval to the Township that contains all the information required on the application form. The final plat shall conform substantially to the preliminary plat and shall contain the information, and comply with the design features and standards, required in Sections IV and V of the County's Subdivision Controls Ordinance. At least six copies of the final plat application materials shall be submitted to the Township together with the applicable fee. Complete applications shall be forwarded to the Town Board for review and action.
2. Town Board Action. The Town Board shall review and act on the application for final plat approval. The Town Board may impose conditions on its approval of the

final plat. All public improvements to be constructed within the subdivision shall be completed in accordance with the approved plans and specifications, as well as the terms and conditions of the development agreement entered into for the Subdivision.

3. Recording. The approved final plat shall be recorded in the office of the County Recorder within one hundred twenty (120) days of final approval. Failure to record the final plat within the prescribed period shall render the Town Board's approval null and void unless the Town Board, upon the written request of the developer, grants an extension.

**L. ROADS DEDICATED BY PLAT:**

The Town Board's approval of a Subdivision containing roads or other ways or easements dedicated to the public does not constitute a decision by the Township to open and maintain those roads, ways, or easements. The approval is limited to the Subdivision itself and separate approval by the Town Board is required before the Township will open and maintain any platted roads as part of its system of publicly maintained Township roads or maintain any other areas dedicated to the public within the Subdivision. It is the responsibility of the developer to construct and pay for all roads, stormwater ponds and other drainage structures, and other improvements within those lands dedicated to the public in accordance with the Township's specifications and the requirements set out in the conditions of approval and the development agreement entered into for the Subdivision. It is the responsibility of the developer, or those who own property within the subdivision, to maintain the platted roads until the Town Board determines by resolution that they are sufficiently built and satisfy such other conditions of acceptance the Town Board may require to be opened and maintained as part of the Township's system of publicly maintained Township roads. Once the Town Board passes a resolution determining to open and maintain a particular platted road, the Township shall provide for its maintenance in accordance with the same policies and procedures it follows to maintain similar roads within the Township.

## SECTION XI. LAND USE PERMITS

### A. BUILDING CODE:

The Township has not adopted the Minnesota State Building Code (“Code”) and the provisions of the Code shall not apply within the Township except for those provisions of the Code made applicable statewide and that are administered by the State. Nothing in this Ordinance shall be construed as the Township adopting the Code.

### B. REQUIRED:

1. Permit Needed. No person shall construct a new structure, place a foundation, change the exterior dimensions of a structure, move, or place a structure within the Township without first obtaining a land use permit from the Township.
2. Exceptions. No land use permit shall be required for any of the following:
  - a. Replacement of siding, doors, windows, or roof;
  - b. Interior remodeling;
  - c. Replacement of any wells or septic systems, but well and septic system replacements permits must be obtained from Otter Tail County; or
  - d. Structures with a total size of 120 square feet or less and any alterations to such structures, provided the alteration does not cause the structure to exceed 120 square feet.

### C. APPLICATION:

Applications for a land use permit shall be signed by the applicant or his/her authorized agent and filed with the Township. The application shall be accompanied by the required application fee, a sketch describing the improvement and giving its dimensions, an estimate of the cost of said improvement, the location of the improvement in relation to adjoining boundary lines, right-of-way lines, existing buildings or structures, a description of the existing and planned uses of the land and buildings, a current fire number, a phone number and address where the applicant can be reached, the appropriate fee and such other information as may be required by the Township. If an application is not complete the Township will provide the applicant written notice of what information is needed to complete the application and the application will not be processed until it is determined to be complete.

### D. ISSUANCE:

The Town Board, or its authorized representative, shall issue land use permits upon the submission of a complete application and payment of the application fee, provided the Township determines the proposed work and resulting building or structure complies with this Ordinance.



**E. DISPLAY REQUIRED:**

The land use permit must be displayed on the property in a location visible from the outside during the excavation, moving, changing, or altering any part of a structure.

**F. DURATION:**

All land use permits are valid for one (1) year from the date the permit is issued. If substantial construction has not taken place within one (1) year from the date on which the permit was granted, the permit shall become void and no further work may occur until a new land use permit is applied for and obtained from the Township.

## **SECTION XII. CONDITIONAL USE PERMITS**

### **A. REQUIRED:**

No use classified as a conditional use within a zoning district may be established without first obtaining a conditional use permit from the Township. Furthermore, no such use may be expanded without first obtaining a new or amended conditional use permit from the Township.

### **B. APPLICATION:**

An application for a conditional use permit shall be signed by the property owner and shall be submitted by the owner, or its authorized agent, to the Township. If a change in ownership is anticipated related to the proposed use, the future owners shall also be included as applicants. The application must be on the Township's form, accompanied by the required application fee and escrow (if required), and must, at a minimum, contain all of the following information:

1. The name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-quarter mile of the property to which the application relates;
2. The name of the applicant and of all owners of the property to which the application relates; and
3. A description of the proposed use including, to the extent applicable, hours of operation, parking, anticipated traffic and routes, lighting plans, identification and explanation of any potential sources of significant noise, dust, vibration, or other impacts reasonably anticipated to be generated by the proposed use which could affect surrounding properties.

The Township may require the applicant to submit additional information such as, but not limited to, the following: surveys; preliminary architectural drawings or sketches of all buildings or groups of buildings showing the front, side, and rear elevations of the proposed building, structure, or other improvements; and the proposed location of such buildings on the lot as the same shall appear after the work has been completed.

### **C. NOTICE:**

At least ten days before the date of the hearing, notice shall be published in the Township's official newspaper and mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within one-quarter mile of the property to which the application relates. The notice shall state the time, place, and purpose of the hearing. The Township may require the applicant to mail the notice prepared by the Township to the property owners within the one-quarter mile area or to provide the Township mailing labels for such notices. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.

### **D. SITE INVESTIGATION:**

The Township may conduct one or more site investigations of the property as part of processing a permit application. If a quorum or more of the Planning Commission or of the Town Board

conducts a site investigation, notice shall be posted at the Township's posting place(s) at least three days before the date of the inspection unless the inspection is being conducted as part of the hearing. The Township may also conduct one or more site investigations after a permit has been issued to review an alleged or potential violation of the conditions of the permit or of this Ordinance. Submission of an application, and acceptance of a permit, constitutes consent on the part of the owners of the property to the conditions imposed on the permit and to allow the Township to conduct inspections of the property at reasonable times to determine eligibility to receive a permit and then related to the administration and enforcement of the permit.

**E. PLANNING COMMISSION REVIEW AND RECOMMENDATION:**

The Planning Commission shall conduct a public hearing on the proposed conditional use permit and develop a recommendation to the Town Board regarding the proposed permit. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Planning Commission's questions. In reviewing the request and developing its recommendation, the Planning Commission shall consider the standards and criteria set out in this Section in addition to any other standards or criteria applicable to the specific proposed use that may be set out in this Ordinance. It is the owner's burden to prove that the standards and criteria can be met in a manner that does not adversely affect the health, safety or general welfare of the residents in the Township. If the Planning Commission recommends approval of the permit, its recommendation shall include the conditions it recommends be placed on the permit. The recommended conditions may include any of those identified in this Section as well as any others the Planning Commission determines are appropriate and reasonable to address anticipated impacts of the proposed use in order to protect the public health, safety, and welfare. The Planning Commission shall forward its recommendation, together with its supporting findings, to the Town Board.

**F. TOWN BOARD DECISION:**

The Town Board shall consider the Planning Commission's recommendation and make a final decision regarding the proposed conditional use permit. In its review of the application, the Town Board shall consider possible adverse effects of the proposed conditional use and what additional requirements may be necessary to prevent such adverse effects. The Town Board may impose such conditions on the permits it issues as it determines are reasonable to address anticipated impacts of the proposed use in order to protect the public health, safety, and welfare.

**G. STANDARDS AND CRITERIA:**

In addition to any specific criteria or standards this Ordinance may contain with respect to a particular use, the following standards and criteria will be used to evaluate if a conditional use permit should be issued based on whether, under the particular circumstances, the proposed use would:

1. Not be injurious to the use and employment of other property in the immediate vicinity for the purpose already permitted;
2. Not substantially diminish and impair property values within the general vicinity;
3. Not impede the normal and orderly development and improvement of surrounding vacant property for uses predominate in the area;

4. Be supported by adequate utilities, access roads, drainage, and other necessary facilities that are either existing or that will be provided;
5. Adequately provide for parking, current and anticipated traffic congestion, and traffic safety so the use does not become or create a nuisance;
6. Be operated in such a way, or that adequate measures have been taken, to prevent or control offensive odor, fumes, dust, noise, light, and vibrations so that none of these will constitute a nuisance; and
7. Be in conformance with the provisions of this Ordinance, consistent with the Township's land use plan, and would not unreasonably interfere with the health, safety, and welfare of the surrounding owners and the public, if conducted in compliance with the conditions imposed on the permit.

#### **H. CONDITIONS:**

The Town Board may attach such conditions to a conditional use permit it issues as it deems necessary to achieve the purpose of this Ordinance and to protect the public health, safety, and welfare. These conditions may include, but are not be limited to, the following:

1. Increased setbacks;
2. Landscaping, berming, fencing, screening or other facilities to protect nearby property;
3. Periods and/or hours of operation;
4. Intensity and duration of lighting;
5. Deed restrictions;
6. Location of parking and signs;
7. Toxic material storage and handling;
8. Fire control and access plan;
9. Compliance with prior conditional use permits and periodic reviews; and
10. Any other reasonable requirements necessary to fulfill the purposes and intent of this Ordinance including, but not limited to, the protection of public health, safety, and welfare as determined by the Town Board.

#### **I. RECORDING:**

The Town Board will record, at the owners' expense, the conditional use permits it issues.

**J. AMENDED PERMIT:**

Any change involving structural alterations, enlargement, intensification of the use or similar change not specifically permitted by a conditional use permit shall require that the conditional use permit be amended. An application to amend an existing conditional use permit shall be administered in the same manner that is required for a new conditional use permit. All application and review procedures shall apply.

**K. EXPIRATION AND REVOCATION:**

A conditional use permit shall expire and become void if the use it allows is not substantially started within 12 months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The Town Board may revoke a conditional use permit if it determines, after notice to the owner and conducting a public hearing, that any of conditions imposed on the permit have been violated.

## **SECTION XIII. INTERIM USE PERMITS**

### **A. REQUIRED:**

No use classified as a interim use within a zoning district may be established without first obtaining a interim use permit from the Township. Furthermore, no such use may be expanded without first obtaining a new or amended interim use permit from the Township.

### **B. APPLICATION:**

An application for a interim use permit shall be signed by the property owner and shall be submitted by the owner, or its authorized agent, to the Township. If a change in ownership is anticipated related to the proposed use, the future owners shall also be included as applicants. The application must be on the Township's form, accompanied by the required application fee and escrow (if required), and must, at a minimum, contain all of the following information:

1. The name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-quarter mile of the property to which the application relates;
2. The name of the applicant and of all owners of the property to which the application relates; and
3. A description of the proposed use including, to the extent applicable, hours of operation, parking, anticipated traffic and routes, lighting plans, identification and explanation of any potential sources of significant noise, dust, vibration, or other impacts reasonably anticipated to be generated by the proposed use which could affect surrounding properties.

The Township may require the applicant to submit additional information such as, but not limited to, the following: surveys; preliminary architectural drawings or sketches of all buildings or groups of buildings showing the front, side, and rear elevations of the proposed building, structure, or other improvements; and the proposed location of such buildings on the lot as the same shall appear after the work has been completed.

### **C. NOTICE:**

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

### **D. SITE INVESTIGATION:**

The Township may conduct one or more site investigations of the property as part of processing a permit application. If a quorum or more of the Planning Commission or of the Town Board conducts a site investigation, notice shall be posted at the Township's posting place(s) at least three days before the date of the inspection unless the inspection is being conducted as part of

the hearing. The Township may also conduct one or more site investigations after a permit has been issued to review an alleged or potential violation of the conditions of the permit or of this Ordinance. Submission of an application, and acceptance of a permit, constitutes consent on the part of the owners of the property to the conditions imposed on the permit and to allow the Township to conduct inspections of the property at reasonable times to determine eligibility to receive a permit and then related to the administration and enforcement of the permit.

**E. PLANNING COMMISSION REVIEW AND RECOMMENDATION:**

The Planning Commission shall conduct a public hearing on the proposed interim use permit and develop a recommendation to the Town Board regarding the proposed permit. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Planning Commission's questions. In reviewing the request and developing its recommendation, the Planning Commission shall consider the standards and criteria set out in this Section in addition to any other standards or criteria applicable to the specific proposed use that may be set out in this Ordinance. It is the owner's burden to prove that the standards and criteria can be met in a manner that does not adversely affect the health, safety or general welfare of the residents in the Township. If the Planning Commission recommends approval of the permit, its recommendation shall include the conditions it recommends be placed on the permit. The recommended conditions may include any of those identified in this Section as well as any others the Planning Commission determines are appropriate and reasonable to address anticipated impacts of the proposed use in order to protect the public health, safety, and welfare. The Planning Commission shall forward its recommendation, together with its supporting findings, to the Town Board.

**F. TOWN BOARD DECISION:**

The Town Board shall consider the Planning Commission's recommendation and make a final decision regarding the proposed interim use permit. In its review of the application, the Town Board shall consider possible adverse effects of the proposed interim use and what additional requirements may be necessary to prevent such adverse effects. The Town Board may impose such conditions on the permits it issues as it determines are reasonable to address anticipated impacts of the proposed use in order to protect the public health, safety, and welfare.

**G. STANDARDS AND CRITERIA:**

An "interim use" is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it. In granting an interim use permit, the Town Board shall consider the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding lands and water bodies. Among other things, the Town Board shall make the following findings where applicable:

1. The proposed use meets the applicable standards set forth for conditional use permits;
2. The proposed use will terminate upon a date or event that can be identified with certainty; and
3. The proposed use will not impose additional costs on the public if it is necessary for the public to take the property in the future.

#### **H. CONDITIONS:**

The Town Board may attach such conditions to a interim use permit it issues as it deems necessary to achieve the purpose of this Ordinance and to protect the public health, safety, and welfare. These conditions may include, but are not be limited to, the following:

1. Increased setbacks;
2. Landscaping, berming, fencing, screening or other facilities to protect nearby property;
3. Periods and/or hours of operation;
4. Intensity and duration of lighting;
5. Deed restrictions;
6. Location of parking and signs;
7. Toxic material storage and handling;
8. Fire control and access plan;
9. Compliance with prior interim use permits and periodic reviews; and
10. Any other reasonable requirements necessary to fulfill the purposes and intent of this Ordinance including, but not limited to, the protection of public health, safety, and welfare as determined by the Town Board.

#### **I. RECORDING:**

The Town Board may, but is not required to, record the interim use permits it issues. If the Town Board records an interim use permit, the owner shall be responsible for the costs of recording.

#### **J. AMENDED PERMIT:**

Any change involving structural alterations, enlargement, intensification of the use or similar change not specifically permitted by a interim use permit shall require that the interim use permit be amended. An application to amend an existing interim use permit shall be administered in the same manner that is required for a new interim use permit. All application and review procedures shall apply.

#### **K. EXPIRATION, TERMINATION AND REVOCATION:**

An interim use permit shall expire and become void if the use it allows is not substantially started within 12 months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. An interim use permit shall terminate on the date or upon the happening of the event identified in the permit. The termination of the interim use permit does not preclude the owner from applying for a new interim use permit. The Town Board may revoke an interim



use permit if it determines, after notice to the owner and conducting a public hearing, that any of conditions imposed on the permit have been violated.

## **SECTION XIV. VARIANCES**

### **A. REQUIRED:**

No deviation in compliance with the strict requirements and standards of this Ordinance shall occur except upon issuance of a variance from the Town's Board of Appeals and Adjustments. Furthermore, no variances shall be granted except in conformance with this Section.

### **B. AUTHORITY:**

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

### **C. APPLICATION:**

An application for a variance shall be signed by the property owner and shall be submitted by the owner, or its authorized agent, to the Township. The application must be on the Township's application form, be accompanied by the required application fee and escrow (if required), and must, at a minimum, contain all of the following information:

1. The name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-quarter mile of the property to which the application relates;
2. The name of the applicant and of all owners of the property to which the application relates;
3. A description of the proposed use or structure to which the variance relates; and
4. An explanation of the specific conditions and circumstances that give rise to the practical difficulties in strictly complying with the provisions of this Ordinance and the specific provisions of this Ordinance from which a variance is being sought.

### **D. NOTICE:**

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

**E. SITE INVESTIGATION:**

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

**F. PLANNING COMMISSION REVIEW AND RECOMMENDATION:**

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

**G. BOARD OF APPEALS AND ADJUSTMENTS DECISION:**

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

**H. VARIANCE CRITERIA:**

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

1. The variance is in harmony with the general purposes and intent of this Ordinance;
2. The variance is consistent with the comprehensive plan;

3. The owner proposes to use the property in a reasonable manner not permitted by this Ordinance;
4. The plight of the owner is due to circumstances unique to the property that were not created by the owner;
5. If granted, the variance will not alter the essential character of the locality; and
6. Economic considerations are not the sole basis for the requested variance.

**I. RECORDING:**

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

**J. EXPIRATION AND REVOCATION:**

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

## **SECTION XV. APPEALS**

### **A. APPEALABLE DECISIONS:**

Only alleged errors in an order, requirement, decision, or determination made by administrative staff in the enforcement of this Ordinance are appealable to the Board of Appeals and Adjustments. The decisions of the Town Board and the Board of Appeals and Adjustments are final and are not appealable to the Board of Appeals and Adjustments. Recommendations of the Planning Commission are not final decisions and are not appealable to the Board of Appeals and Adjustments.

### **B. NOTICE OF APPEAL:**

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

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

### **C. INITIAL REVIEW:**

The Town Clerk shall review the notice of appeal to determine if it contains all the required information and is otherwise complete. If a notice of appeal is not complete, the order or decision to which it relates is not appealable, or if it was not filed in a timely manner, the Town Clerk shall reject the notice of appeal. The Town Clerk shall provide a written notice of the rejection to the person that filed the appeal. The Town Clerk may consult the Board of Appeals and Adjustments and the Town Attorney as needed to make a determination as to whether a notice of appeal is complete, proper, and filed in a timely manner. The Town Clerk shall forward complete, proper, and timely notices of appeals to the Board of Appeals and Adjustments to conduct a hearing. The Town Clerk shall also provide a copy of the notice of appeal to the Planning Commission.

### **D. NOTICE:**

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

Board of Appeals and Adjustments shall allow a reasonable time, not to exceed 60 days, for the Planning Commission to review and report on the notice of appeal.

**E. OPTIONAL PLANNING COMMISSION REVIEW:**

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

**F. BOARD OF APPEALS AND ADJUSTMENTS DECISION:**

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

**G. JUDICIAL REVIEW:**

Appeals from the final decisions of the Town Board or of the Board of Appeals and Adjustments may be brought as allowed in Minnesota Statutes, section 462.361, provided such appeal is served on the Township and filed with the District Court within thirty (30) days of the final decision being appealed.

## **SECTION XVI. NONCONFORMING USES, STRUCTURES AND SUBSTANDARD LOTS**

### **A. NONCONFORMING USES AND STRUCTURES:**

Any use or structure lawfully existing prior to the effective date of this Ordinance, or subsequent amendment which made the use or structure nonconforming, may be continued, including through repair, replacement, restoration, maintenance, or improvement, at the size and in the manner of operation existing upon such date, subject to the following conditions:

1. Expansions. A nonconforming use or structure shall in no way be expanded, enlarged or extended either on the same property or onto an adjoining lot of record except as expressly allowed in this section. Prohibited expansion, enlargement or extension shall include anything that increases the intensity of the use including, but not limited to, a change to a more intense nonconforming use or a physical expansion of the existing use that increases the height, volume and/or area dimensions of the nonconforming use. The Town Board may allow an expansion or extension of a nonconforming structure without a variance if the expansion or extension does not increase the nonconforming aspect of the structure. To the extent the expansion or enlargement of a nonconforming principal or accessory structure is allowed by this section, no such expansion or enlargement may occur except upon issuance of the appropriate permits and provided that the use of the property conforms to the zoning district regulations, that the expansion or enlargement meets current zoning district regulations, and no other nonconformities are created.
2. Maintenance. Routine maintenance of a structure containing or relating to a lawful nonconforming use is permitted, including any necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use. Nothing in this section prevents the placing of a structure into a safe condition after it has been declared unsafe by the Township.

### **B. ALTERATIONS:**

Alterations may be made to a building containing nonconforming residential units when the alterations will improve the livability of such units, provided that such alterations do not increase the number of dwelling units in the building. Such alterations must be approved by the Township.

### **C. DAMAGED NONCONFORMING STRUCTURES:**

Whenever a nonconforming structure or use is damaged by fire, collapse, flood, explosion, earthquake, war, riot, act of God or public enemy or to the extent of 50 percent or less of its estimated market value as indicated in the assessor's records at the time of damage, it may be reconstructed. The nonconforming structure or use shall not be permitted to be reconstructed if the damage is greater than 50 percent of the estimated market value as indicated in the assessor's records at the time of damage and no zoning and land use permit has been applied for within 180 days of when the property was damaged. If a permit is applied for within 180 days, the Township may impose reasonable conditions upon any such land use permit it may issue in order to mitigate any newly created impact on adjacent property.

**D. REPLACING NONCONFORMING USES:**

When any lawful nonconforming use of any structure or land is replaced by another use or structure, the new use or structure must conform to the provisions of this Ordinance and it shall not thereafter be changed to any nonconforming use or structure.

**E. DISCONTINUED NONCONFORMING USES:**

If the nonconforming use of land is discontinued for a period of twelve (12) months, the subsequent use of the land or the structure shall be in conformity with the provisions of this Ordinance.

**F. NONCONFORMITIES IN SHORELANDS:**

Shoreland lots of record are subject to the provisions of Minnesota Statutes, section 462.357, subdivision 1e, paragraphs (d) to (j) and of this Ordinance, to the extent the provisions of this Ordinance do not conflict with the statutory provisions.

**G. PUBLIC NUISANCES:**

Nonconforming uses or structures which are declared by the Township to be public nuisances shall not be allowed to continue as legal nonconforming uses or structures.

**H. SUBSTANDARD LOTS / LOTS OF RECORD:**

All lots of record that do not meet the minimum lot area and lot width requirements, may be allowed as building sites without a variance from lot size or width requirements provided that it satisfies all of the following:

1. The use is permitted in the district;
2. The lot was created compliant with official controls in effect at the time;
3. The setback requirements of this Ordinance are met;
4. The applicable ISTS/SSTS (Individual Sewage Treatment System/Subsurface Sewage Treatment System) regulations are met.



## **SECTION XVII. AMENDMENTS**

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

### **A. WHO MAY INITIATE:**

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

### **B. APPLICATION:**

An application seeking an amendment, including a request to rezone property, shall be signed by the interested property owner and shall be submitted by the owner, or its authorized agent, to the Township. The application must be on the Township's form, accompanied by the required application fee and escrow (if required), and must, at a minimum, contain all of the following information:

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

### **C. TOWNSHIP INITIATED AMENDMENTS:**

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

### **D. NOTICE:**

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

**E. PLANNING COMMISSION REVIEW AND RECOMMENDATION:**

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

**F. TOWN BOARD DECISION:**

The Town Board shall take action on the proposed amendment at a Township board meeting. If the amendment was initiated by application of an owner, the Township shall inform the property owner of the Town Board's decision.

**G. LIMITATION ON SIMILAR APPLICATIONS:**

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

## **SECTION XVIII. FEES**

### **A. APPLICATION AND ADMINISTRATIVE FEE:**

Any person submitting an application under this Ordinance shall pay the appropriate nonrefundable application fee as established by the Town Board. The person may also be required to pay an administrative fee deposit (escrow) in the amount determined by the Town Board and sign an agreement on a form provided by the Township agreeing to reimburse the Township for its costs, including all engineering, planning, legal, administrative and inspection expenses, incurred by the Township in processing the application. Payment of the application fee and, if required, payment of the administrative fee deposit and execution of the reimbursement agreement shall be required prior to an application being considered filed, complete, and subject to processing. The Township's costs to be reimbursed from the administrative fee are part of the fees imposed to process the request and constitute a service fee which is collectible pursuant to Minnesota Statutes, section 366.012.

### **B. DEDUCTION OF EXPENSES:**

As the Township processes the application, the Town Clerk shall deduct the expenses incurred by the Township from the administrative fee deposit. If the Town Clerk determines, after consulting with the Zoning Administrator as needed, the deposit will not be sufficient to fully reimburse the Township for its expenses, the Town Clerk shall require the applicant to make a supplemental deposit in an amount deemed necessary to reimburse the Township for all of its expenses. If the applicant fails to submit the supplemental deposit within a reasonable time, the Township may suspend processing the application until the deficiency is corrected or deny the application.

### **C. REIMBURSEMENT IN FULL REQUIRED:**

Upon the termination of the application, by approval, denial, withdrawal, or any other means, all expenses incurred by the Township shall be immediately payable by the applicant. Any deposit in excess of the Township's expenses shall be refunded to the applicant (without interest). No permits shall be issued, no construction or development shall commence, and no use of the property shall be made until all fees are paid in full. In the event that payment of expenses is not made within a reasonable time after demand, the Town Board may file a lien upon the subject property or other property of the applicant pursuant to Minnesota Statutes, section 514.67, certify the amount as a service charge on the property pursuant to Minnesota Statutes, section 366.012, or take such other action as may be deemed appropriate to obtain full reimbursement the Township's expenses, including the costs of collection.

## SECTION XIX. ADMINISTRATION

### A. TOWN BOARD:

This Ordinance shall be administered and enforced by the Town Board who may designate an enforcing officer or officers (including, but not limited to, the zoning administrator), by appointment of the Town Board.

### B. ZONING ADMINISTRATOR:

If the Town Board appoints a zoning administrator, the position shall have the following duties, which shall be conducted in a manner which is consistent with this Ordinance, applicable laws, and the directions and instructions of the Town Board:

1. Enforce and administer the provisions of this Ordinance;
2. Determine whether applications are complete and in compliance with the terms of this Ordinance;
3. Receive, and forward to the Planning Commission, Board of Appeals and Adjustments, or Town Board applications and other zoning materials as is appropriate;
4. Issue permits and variances once they have been approved as provided in this Ordinance;
5. Issue notices of denial to applicants;
6. Maintain permanent and current records of permits and approvals issued pursuant to this Ordinance, including, but not limited to, land use map changes, amendments to this Ordinance, issuance of conditional use permits, interim use permits, variance approvals, and appeals;
7. Conduct inspections to determine compliance with the provisions of this Ordinance and institute in the name of the Township, any appropriate actions or proceedings against a violator as provided by this Ordinance or law;
8. Serve as an ex-officio member of the Planning Commission;
9. Collect all fees required by this Ordinance and pay the same to the Township;
10. Track the application of the 60 day rule to land use requests, provide notices to applicants as may be needed, and to keep the Township informed of the applicable deadlines for actions with respect to individual land use requests;
11. File for record with the Otter Tail County Recorder or Registrar of Titles all documents required to be filed by law;
12. To enforce this Ordinance, including through the issuance of violation notices, cease and desist orders, or corrective orders as determined appropriate, and to work with the Town Attorney as needed to administer and enforce this Ordinance;

and

13. To perform such other duties and responsibilities as provided in this Ordinance or as assigned by the Town Board.

**C. DELEGATION OF AUTHORITY:**

The Town Board hereby delegates to the Zoning Administrator all authority needed to carry out the duties assigned to that person as provided in this Ordinance or as delegated by the Town Board including, but not limited to, the authority to determine if an application is complete and to notify an applicant of what information is needed in order to make an application complete. If the Town Board does not appoint a Zoning Administrator, or if there is a vacancy in the position, the Town Board may delegate one or more of the duties of the position to one or more Township officers to perform on behalf of the Township. Such delegation of duties shall include the authority for the officer to carry out the assigned duties. The Town Board may also delegate duties to the Township Attorney to carry out on behalf of the Township which are in addition to those already delegated in this Ordinance.

**D. PLANNING COMMISSION:**

The Clitherall Town Planning Commission previously established by ordinance adopted by the Town Board is hereby reaffirmed as the Township's planning agency. The Planning Commission serves in an advisory capacity to the Town Board. The composition, terms, duties, and powers of the Planning Commission are set out in the ordinance adopted by the Town Board to reestablish the Planning Commission and said ordinance is incorporated herein by reference.

**E. BOARD OF APPEALS AND ADJUSTMENTS:**

The Town Board shall serve as the Clitherall Town Board of Appeals and Adjustments.

1. Rules and Procedures. The Board of Appeals and Adjustments may adopt rules and procedures related to how it conducts its meetings and hearings, provided such rules and procedures are consistent with the provisions of this Ordinance and applicable laws.
2. Meetings and Hearings. The Board of Appeals and Adjustments will hold meetings and hearings as needed to conduct its duties. Meetings of the Board of Appeals and Adjustments may be held as part of the regular or special meetings of the Town Board.
3. Powers and Duties. The Board of Appeals and Adjustments shall have the following powers and duties:
  - a. To grant variances from the strict enforcement of the standards and provisions prescribed by this Ordinance. Variances shall only be granted based upon the criteria prescribed in this Ordinance;
  - b. To hear and decide appeals. Appeals shall only be heard and considered in conformance with the procedures prescribed in this Ordinance; and

- c. To interpret the provisions of this Ordinance, the definition of terms, and the district boundaries on the zoning map.

## **SECTION XX. ENFORCEMENT AND PENALTIES**

### **A. ENFORCEMENT AND PENALTIES:**

Any person who violates any of the provisions of this Ordinance or who makes any false statements on any application shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a maximum fine or maximum period of imprisonment, or both, as specified by Minnesota Statutes, section 609.03. Any person who commences a land use activity which requires a land use permit without first having obtained such a permit from the Township shall be required to obtain an after-the-fact land use permit and pay a multiple of the permit fee as indicated in the Township's current fee schedule.

Criminal prosecution of a violation shall not bar the Township from also pursuing a civil remedy, just as pursuit of a civil remedy does not bar criminal prosecution of a violation. In the event any person commences any land use activity that requires a permit under the provisions of this Ordinance prior to the issuance of such permit or otherwise violates this Ordinance, the Township, its zoning administrator, or attorney may issue a written cease and desist order, stop work order, corrective order, or similar order to prohibit continuation of the activity until the required permits are obtained or until the property is otherwise brought into compliance with this Ordinance. If the required permits are not obtained, or if the work or use is not allowed by the Ordinance, the person shall be ordered to permanently abate all activities not permitted under this Ordinance. The order may require the person to restore the property including, but not limited to, the removal of all structures or buildings constructed in violation of the provisions of this Ordinance.

In the event any land is used or is proposed to be used in such a manner as to be in violation of this Ordinance, or if any building, structure, alteration thereof or part thereof is, or is proposed to be, used or erected in violation of this Ordinance, the Township may, in addition to issuing orders to prevent, abate, or correct a violation, institute an injunction, mandamus, abatement or other appropriate civil and criminal actions as it determines appropriate to prevent, enjoin, correct, abate or remove such unlawful use, construction, reconstruction, alteration, or maintenance. The Town Board shall determine whether to initiate a civil or criminal action regarding a violation. Upon the Town Board's decision to initiate a legal action, the Township's attorney shall be authorized to take such actions as may be necessary to carry out such enforcement action.

### **B. ENFORCEMENT COSTS:**

In the event of a violation of this Ordinance, the cost of prosecution may be added to the penalty as allowed by Minnesota Statutes, section 366.01, subdivision 10. Furthermore, the administrative and legal expenses incurred by the Township related to an enforcement action may be assessed by court order against the party found to have violated the Ordinance. Upon Court approval, the Town Clerk shall prepare a bill for the expenses incurred and shall mail a copy to the owner/violator by mail. The amount therein shall be immediately due and payable to the Township. Failure to pay any such amounts may result in them being certified and collected against the property as a service charge as provided in Minnesota Statutes, section 366.012, or may be collected by any other means available to the Township under law.

Adopted on the 12<sup>th</sup> day of February, 2015.

**BY THE TOWN BOARD**

\_\_\_\_\_  
Town Chairperson

Attest: \_\_\_\_\_  
Town Clerk



**APPENDIX A  
PLATTED ROAD MINIMUM STANDARDS**

*The following is an excerpt from the Subdivision Controls Ordinance of Otter Tail County and is revised to reflect the stricter standards imposed by the Township.*

The design of all roads shall be considered in relation to existing and planned roads, to reasonable circulation of traffic, topographical conditions, to run off of storm waters and to the proposed uses of the areas to be served.

- A. Where adjoining areas are not subdivided, the arrangement of roads in new subdivisions shall make provisions for the proper projection of roads. When a new subdivision adjoins unsubdivided land susceptible of being subdivided, then the new road shall be carried to the boundaries of such unsubdivided land. Where new roads extend existing adjoining roads, their projections shall be at the same or greater width, but in no case, less than the minimum required width.
- B. The minimum road design standards of Otter Tail County, including road width and grade standards, shall be observed by the subdivider, as set forth in Appendix III.
- C. Straight segments of at least one hundred (100) feet in length shall be introduced between reverse curves on collector roads and fifty (50) feet on local roads and alleys.
- D. Insofar as practical, road intersections shall be at right angles and no intersection shall be at an angle of less than 45 degrees. It must be evidenced that safe and efficient traffic flow is encouraged.
- E. Private roads shall not be approved nor shall public improvements be approved for any previously existing private road.
- F. Where a proposed plat is adjacent to a primary road or highway, the County Board may require the subdivider to provide a service road along the right-of-way of such facility.
- G. The road arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.
- H. At road intersections, curb lines shall be rounded at a radius of not less than fifteen (15) feet.

**APPENDIX III  
MINIMUM ROAD STANDARDS**

- 1. The following width and grade standards of road design shall be observed by the subdivider:

	Minimum Right-of-Way Width	Maximum Grade
Local Roads (tertiary)	66 Feet	8%
Alleys	33 Feet	8%

2. All roads dedicated for public use or for the use of lot owners on a plat presented for the approval shall have a permanent minimum width of 66 feet right-of-way (during the road construction period the right-of-way width may exceed 66 feet to provide for the appropriate backslope). Dead end roads require a cul-de-sac which has a minimum 120 foot diameter.
3. All dedicated roadways have a roadbed of not less than 36 feet in width when a permanent gravel surface is anticipated and not less than 36 feet when a bituminous surface is anticipated. All cul-de-sacs, regardless of surface type, shall have a minimum traveled surface diameter of 100 feet.
4. When necessary for drainage, ditches along the roadbed shall not be less than 2 feet deep.
5. Graveling is required. Minimum gravel thickness shall be 3 inches compacted or 4 inches loose.
6. Contact the Township when road is ready for inspection.