

## CHAPTER 4 ADMINISTRATION AND ENFORCEMENT

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### **1-4-1: ADMINISTRATIVE OFFICERS:**

**A. Zoning Administrator, Planning Director:** The title of Zoning Administrator and Planning Director as used in this Ordinance shall refer to a staff person delegated such duties by the Township Board.

### **B. Duties of Director of Planning and Zoning:**

**1. Duties:** The duties of the Director of the Planning and Zoning Department shall include, but are not limited to, the following specific duties or any duties so delegated by the Township Board. The Director may delegate these duties to a Zoning Administrator or other staff:

- a. Coordination of Activities:** Coordination of all codes administration and planning activities as authorized by this Ordinance.
- b. Review Applications:** Review applications for and issue development permits and maintain records thereof, including the recording of the elevation of the first floor (including basement) and the elevation at which structures are floodproofed for construction of new or additions to existing structures located in Flood Plain Districts.
- c. Inspections:** Conduct necessary inspections of buildings and uses of land to determine compliance with the provisions of this Ordinance.
- d. Public Information Bureau:** Provide and maintain a public information bureau relative to matters of this Ordinance and the Township Land Use Plan.
- e. Advisor:** Act as official advisor to the Township Board on matters originating from administration of this Ordinance.
- f. Zoning Certificates:** Review applications and issue all zoning certificates.
- g. Conditional Use Permits; Subdivision Review:** Review applications and issue all conditional use permits and applications for subdivision review.
- h. Additional Duties:** Perform all duties in addition to those listed herein that may be necessary for the proper administration of this Ordinance.

**C. Appeals of Administrative Decisions:** Administrative decisions of the Planning Director or Zoning Administrator that are not reviewed by the Planning Commission, Township Board or Board of Adjustment, including but not limited to the issuance of sewage disposal permits and zoning certificates, shall be considered final administrative decisions. Such final administrative decisions may be appealed to the Board of Adjustment by the applicant within thirty (30) calendar days of the date of any denial by filing with the Board of Adjustment a notice of appeal specifying the grounds of the appeal.

#### **1-4-2: BOARD OF HAWLEY TOWNSHIP:**

The Township Board shall have jurisdiction in all matters permitted by law and shall have the specific and general powers provided in this Ordinance as follows:

- A. Provide Enforcement and Administration:** The Township Board shall provide for the enforcement and administration of this Ordinance by creating a Planning Commission and Board of Adjustment with appropriate duties and responsibilities and to impose enforcement duties of any officer, department, agency or employee of the Township.
- B. Public Hearings:** The Township Board shall assign responsibility to conduct public hearings to the Planning Commission, Board of Adjustment or any official or employee of the Township, except as provided in Minnesota Statutes Annotated, for the purpose of administration of this Ordinance.
- C. Zoning Amendments:** The Township Board shall have the power to initiate, consider, adopt or reject proposed zoning district or text amendments or repeal of this Ordinance. Township Board decisions on zoning district or text amendments shall constitute final decisions and as such may be appealed to the District Court.
- D. Subdivision Plats:** To consider, approve, approve with conditions or disapprove any plats forwarded by the Planning Commission. Township Board decisions on plats shall constitute final decisions and as such may be appealed to the District Court.

#### **1-4-3: PLANNING COMMISSION:**

##### **A. Creation; Membership:**

- 1. Established:** The Township Board of Supervisors hereby establishes the Township Planning Commission.
- 2. Membership; Term:** The Township Planning Commission shall be comprised of five (5) members, each appointed to serve a three (3) year term of office. Appointments of less than three (3) years may be made to fill vacancies for unexpired terms.

##### **B. Powers and Duties:** The Planning Commission shall have the following powers and duties:

- 1. Planning and Zoning:** The Planning Commission shall have the authority to cooperate with employees of the Township in preparing and recommending to the Township Board the adoption of comprehensive plans, recommendations for official controls and other measures and amendments thereto.
- 2. Conditional Use Permits:** The Planning Commission shall have the authority to hear and decide on all applications for conditional use permits. Planning Commission decisions on conditional use permits may be appealed within thirty (30) calendar days of decision to the Township Board by filing with the Township Board a notice of appeal specifying the grounds of the appeal. Township Board decisions on conditional use permits appeals from Planning Commission are considered final decisions and may be appealed to the District Court.
- 3. Subdivisions; Amendments:** The Planning Commission shall have the authority to review and make recommendation to the Township Board on subdivision plats and amendments to this Ordinance.
- 4. Temporary Uses:** The Planning Commission shall have the power to allow the temporary use of a building or premises in any district for a purpose or use that does not conform to the conditions prescribed by this Ordinance; provided, that such use be of a truly temporary nature and does not involve the erection of substantial buildings or a use existing for a period of more than three (3)

months.

#### **1-4-4: BOARD OF ADJUSTMENT:**

##### **A. Creation; Membership; Authority:**

1. **Established:** A Board of Adjustment is hereby established and vested with such authority as provided by Minnesota Statutes Annotated section 462.354, as amended.
2. **Membership; Term:** The Board of Adjustment shall be comprised of three (3) members, each appointed to serve a three (3) year term of office. No one member shall serve more than three (3) consecutive three (3) year terms on the Board of Adjustment. Appointments of less than three (3) years may be made to fill vacancies for unexpired terms.
3. **Authority:** The Board of Adjustment shall have the authority to hear and decide on all variance applications. All appeals shall be in accordance with the procedures and standards of Minnesota Statutes Annotated section 462.657 Subdivision 6 and section 462.359 subdivision 4, and the additional procedures as prescribed in this Section.
4. **Conveyance Agreements in Agricultural District:** The Board of Adjustment shall hold public meetings to make decisions regarding the conveyance of rights for development of residential property when ownership within a quarter-quarter proposed for development lies with more than one property owner. Approval of such conveyance agreements must be made by the Board of Adjustment prior to the initiation of any other land division review procedures.
5. **Appeals of Administrative Decisions:** The Board of Adjustment shall have the authority to hear and decide on appeals of final administrative decisions of the Planning Director or Zoning Administrator that are not reviewed by the Planning Commission, Township Board or Board of Adjustment. Such final administrative decisions may be appealed to the Board of Adjustment by the applicant within ten (10) days of the date of any denial by filing with the Board of Adjustment a notice of appeal specifying the grounds of the appeal.

#### **1-4-5: VARIANCES:**

- A. **Power to Authorize:** The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances provided for in Minnesota Statutes Annotated chapter 462.357 Subdivision 6.
- B. **Finding Require Specific Conditions:** In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that exist consistent with the criteria specified in Minnesota Statutes Annotated Section 462.357 subdivision 6 which justify the granting of the variance.
- C. **Compliance with Statute:** The Board of Adjustment shall not grant a variance unless it finds at a public hearing that the standards of Minnesota Statutes Annotated section 462.357, subsection 6 have been met.
- D. **Criteria for granting variances.** All of the following criteria must be met before a variance may be granted:
  1. **Intent of Ordinance:** The variance is in harmony with the general purposes and intent of this Ordinance.
  2. **Consistent with Comprehensive Plan:** The variance is consistent with the comprehensive plans of any township or city of the Township or the Township Land Use Plan.

3. **Practical Difficulty:** A variance may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the strict letter of this Ordinance. "Practical difficulties," as used in connection with the granting of a variance, mean the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Variances shall be granted for earth sheltered construction as defined in Minnesota Statutes section 216C.06, subdivision 14, when in harmony with the official controls.
4. **Extraordinary Circumstances:** Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property have had no control or influence.
5. **Literal Interpretation Unfair:** The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
6. **Minimum Variance Necessary:** The variance granted shall be the minimum variance that would alleviate the practical difficulty.
7. **Prohibited Variances:** No variance shall be granted where any of the following conditions are present:
  - a. Adequate sewage treatment systems or water supply capabilities cannot be provided;
  - b. The plight of the landowner or hardship is due to circumstances created by the landowner;
  - c. The variance would allow a use that is not allowed in that zoning district;
  - d. The variance would result in a lower degree of flood protection than the Regulatory Flood Protection Elevation. Variances may be used to modify permissible methods of flood protection;
  - e. The essential character of the locality would be altered or there would be a significant adverse effect on the surrounding properties;
  - f. There would be a significant adverse effect on the public health or safety; or
  - g. No variance shall confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district.
- E. **Conditions:** Conditions may be imposed in the granting of a variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
- F. **Shoreland Districts:** For existing developments within the shoreland districts, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, as issued, must require reconstruction of a nonconforming sewage treatment system.
- G. **Flood Hazard Zones:**
  1. **Regulatory Flood Protection Elevation:** No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.
  2. **FEMA Variance Criteria:** The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

- a. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  - b. Variances shall only be issued by a community upon:
    - i. a showing of good and sufficient cause;
    - ii. a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
    - iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. **Flood Insurance Notice and Record Keeping:** The Zoning Administrator shall notify the applicant for a variance that:
- a. **Increased Costs:** The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage; and
  - b. **Risks:** Such construction below the 100-year or regional flood level increases risks to life and property.
  - c. **Record of Variances in Floodplains:** Such notification shall be maintained with a record of all variance actions. The Township shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.
4. **Variance Notification:**
- a. **Hearing:** The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive notice at least ten (10) days prior to the hearing.
  - b. **Decisions:** A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

#### 1-4-6: AMENDMENTS:

- A. **Initiation:** Proceedings for amendment shall be initiated by:
- 1. A petition of the owner or owners of the actual property;
  - 2. A recommendation of the Planning Commission; or
  - 3. Action of the Township Board of Supervisors.
- B. **Application and Filing:**
- 1. **Time of Filing:** All applications shall be filed at least thirty (30) days prior to the public hearing.
  - 2. **Required Information, Text Amendment:** The following information shall be required to accompany an application for a text amendment of this Ordinance:
    - a. Stated reason for requested change;
    - b. Text of the Ordinance provision to be amended;

- c. Additional information requested by the Planning Commission.
- 3. **Required Information, Rezone or Change in District Boundary:** The following information shall be required for a rezoning or change in district boundary:
  - a. Names and addresses of the petitioner and their signatures on the petition;
  - b. A legal description of the property to be rezoned, the names and addresses of all owners in the area, and a description of the property owned by each;
  - c. A site plan showing existing or proposed buildings, uses of land and structures of the property to be rezoned and all lands within five hundred feet (500') of the property in incorporated areas and one-half (1/2) mile in unincorporated areas together with the names and addresses of the owners of the land in such areas;
  - d. The present district classification of the area and proposed classification;
  - e. Additional information as may be requested by the Planning Commission.

**C. Authorization:**

- 1. **Filing with Township Board; Official Date of Application:** Following the closing of the public hearing, the Planning Commission shall request the Planning Director to report its findings and recommendation to the Township Board. The Planning Commission shall file the application with the Township Board within sixty (60) days of application submission. For the purpose of this provision, the date of the first regularly scheduled meeting of the Planning Commission at which any amendments shall be heard shall be considered the official date of the application.
- 2. **Absence of Report:** If no report is transmitted by the Planning Commission within sixty (60) days after the hearing, the Township Board may take action without awaiting a recommendation.
- 3. **Time Limitation:** The Township Board shall take action on the proposed amendment within sixty (60) days following the receipt of the recommendations by the Planning Commission.
- 4. **Public Hearings; Board Action:** In considering the amendment, the Township Board may hold such public hearings as it deems necessary. After conclusion of the hearings, if any, the Township Board may adopt the amendment or any part thereof in such form as it deems necessary to carry out the intent of this Ordinance. Action for approval by the Board shall be not less than a two-thirds (2/3) majority vote of its members. The person making application for amendment shall be notified in writing of the Board's action.
- 5. **Flood Plain District Amendments:** Amendments to the flood plain districts shall not be made unless it has been demonstrated that designations have been made in error or that the area in question has been filled to or above the regulatory flood protection elevation and is contiguous to land outside the flood plain. Special exceptions can be permitted by the Commissioner of Natural Resources if it is determined that, through other measures, lands are adequately protected for the intended use.
- 6. **Approval of Commissioner of Natural Resources:** Amendments to the flood plain provisions of this Ordinance, including the Flood Plain District Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Flood Plain District Map changes must also receive prior approval by the Federal Emergency Management Agency. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration.
- 7. **Denial; Resubmission:** In the event the request for amendment is denied by the Township Board, no further request for the same district change in the same property shall be considered for at least one year.

**D. Criteria and General Review Standards for Granting Zoning District Amendments:**

1. **Effect of Proposed Use:** In granting a zoning district amendment, the Planning Commission shall consider the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands, existing and anticipated traffic conditions on adjacent streets and land, and the effect on agricultural usage in the surrounding area.
2. **Additional Findings:** In addition, the Planning Commission shall make the following findings, among others, where applicable:
  - a. **Burden on Public Utilities:** The development authorized by the rezoning will not create an excessive burden on any public facilities or utilities which serve or are proposed to serve the area.
  - b. **Related to Overall Needs:** The rezoning is reasonably related to the overall needs of the Township and to the existing land use.
  - c. **Consistency with Ordinance:** The rezoning is consistent with the purposes of this Ordinance and the purposes of the zoning district in which the applicant seeks classification.
  - d. **Conflict with Comprehensive Plan:** The rezoning is not in conflict with the comprehensive plans of any township or city of the Township or the Township Land Use Plan.
  - e. **Prematurely Stimulate Public Investment in Utilities:** The rezoning will not either individually or cumulatively stimulate prematurely, public investment in the facilities and utilities described in subsection D.2.a of this Section.

**1-4-7: CONDITIONAL USE PERMITS:**

- A. **Application:** An application for a conditional use permit shall be filed with the Planning Director thirty (30) days prior to the regularly scheduled meeting of the Planning Commission.
- B. **Notice to Commission or Natural Resources:** The Commissioner of Natural Resources shall receive at least ten (10) days' notice of hearings for conditional uses for flood plain or shoreland areas.
- C. **Findings and General Review Standards:** No conditional use permit shall be approved by the Planning Commission unless the following general standards have been considered and written findings have been made:
  1. **Effect of Use:** In granting a conditional use, the Planning Commission shall consider the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands, existing and anticipated land uses, traffic conditions including parking facilities on adjacent streets and land, and the effect on agricultural usage and values of property and scenic views in the surrounding areas, and the effect of the proposed use on existing comprehensive plans.
  2. **Use and Enjoyment of Other Property:** The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, and not substantially diminish or impair property values within the immediate vicinity.
  3. **Development of Surrounding Property:** The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
  4. **Utilities, Access Roads, Drainage, Off-Street Parking and Loading Spaces:** Adequate measures have been or will be taken to provide utilities, access roads, drainage and off-street parking and loading spaces.

5. **Nuisance Conditions:** Adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, water pollution and soil erosion, so that none of these will constitute a nuisance, and to control lighted signs or other lights in such manner that no disturbance to neighboring properties will result.
6. **Burden on Current and Anticipated Public Services:** The use will not create an excessive burden on current or anticipated parks, schools, public safety services, streets, water supply, sanitary sewers and storm sewers and other public facilities or utilities which serve or are proposed to serve the area.
7. **Compatibility:** The use will be sufficiently compatible or separated by distance or screening from adjacent agriculturally zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to agricultural use of said land.
8. **Appearance of Structure and Site:** The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
9. **Relationship to Overall Needs:** The use is, in the opinion of the Planning Commission, reasonably related to the overall needs of the district and to the existing land use. In the case of flood plain areas, the proof that the location is necessary for facility operation and that alternative sites not susceptible to flooding are not available.
10. **Consistency with Ordinance:** The use is consistent with the purposes of this Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
11. **Conflict with Comprehensive Plans:** The use is not in conflict with the comprehensive plan, if any, of the township or city or Clay County.
12. **Traffic Hazards, Congestion in Flood Plain Areas:** The use will not cause traffic hazards or congestion and in flood plain areas has access during flooding for ordinary and emergency vehicles.
13. **Existing Businesses:** Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare or general unsightliness.

**D. Authorization and Conditions for Authorization:**

1. **Action by Planning Commission:**
  - a. **Time Limitation:** Following the closing of the public hearing, the Planning Commission shall take action on the conditional use permit application within sixty (60) days.
  - b. **Official Submission Date:** For the purpose of this provision, the date of the public hearing shall constitute the official submission date.
  - c. **Forwarding to Commissioner of Natural Resources:** Copies of all decisions granting conditional use permits in flood plain or shoreland areas shall be forwarded to the Commissioner of Natural Resources within ten (10) days of that decision.
2. **General Conditions and Requirements:** In permitting a new conditional use, or the alteration of a conditional use, the Planning Commission may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions which they consider necessary to protect the best interest of the surrounding area and Township as a whole. These conditions may include, but are not limited to, the following:
  - a. Increase the required lot size or yard dimension.
  - b. Limiting the height, size or location of buildings.
  - c. Controlling the location and number of vehicle access points.



- d. Increasing the street width.
  - e. Increasing the number of required off-street parking spaces.
  - f. Limiting the number, size, location or lighting of signs.
  - g. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
  - h. Designating sites for open space.
3. **Specific Conditions:** Additional development conditions and requirements for specific conditional uses in **Article \_\_\_** of this Ordinance shall be met in addition to the general review standards in this section.
- E. Standards for Shoreland Conditional Uses:** Conditional uses in shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established communitywide. A thorough evaluation of the water body and the topographic, vegetation, and soils condition on the site must be made to ensure:
- 1. **Susceptibility to Flood Damage:** That the facility, its contents, and its water supply and sanitary system are not susceptible to flood damage and during flooding will not contribute to the creation of disease, contamination, and other unsanitary conditions.
  - 2. **Increased Flood Heights or Velocities:** Life and property will not be endangered due to increased flood heights or velocities caused by encroachment into the floodway.
  - 3. **Dangerous Materials:** During flooding dangerous materials will not be swept downstream and cause injury to others.
  - 4. **Soil Erosion:** The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
  - 5. **Visibility of Structures:** The visibility of structures and other facilities as viewed from public waters is limited;
  - 6. **Water Supply; Sewage Treatment:** The site is adequate for water supply and on-site sewage treatment; and
  - 7. **Watercraft:** The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
- F. Conditions Attached to Conditional Use Permits in Shoreland Areas:** The Planning Commission, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:
- 1. **Setbacks:** Increased setbacks from the ordinary high water level;
  - 2. **Vegetation:** Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
  - 3. **Special Provisions:** Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
- G. Reserved for future use**
- H. Reserved for future use**
- I. Conditional Use Procedures for All Flood Plain Zoning Districts:**
- 1. **Information Required:** Require the applicant to furnish such of the following information and

additional information as deemed necessary by the Township Planning Commission for determining the suitability of the particular site for the proposed use:

- a. **Plans:** Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the stream channel.
  - b. **Specifications:** Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
  - c. **Transmittal to Engineer:** Transmit one copy of the information described in subsection I.1.a of this Section to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
  - d. **Determination of Flood Hazard:** Based upon the technical evaluation of the designated engineer or expert, the Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
2. **Considerations:** In passing upon conditional use applications, the Planning Commission shall consider all relevant factors specified in other sections of this Ordinance; and:
  - a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - b. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
  - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
  - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - e. The importance of the services provided by the proposed facility to the community.
  - f. The requirements of the facility for a waterfront location.
  - g. The availability of alternative locations not subject to flooding for the proposed use.
  - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - i. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
  - j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
  - l. Such other factors which are relevant to the purposes of this Ordinance.
3. **Conditions Attached in Flood Plain Districts:**
  - a. **Duty to Prescribe:** In granting a conditional use permit the Township Planning Commission shall prescribe appropriate conditions and safeguards, in addition to those specified below, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is

granted, shall be deemed a violation of this Ordinance punishable under Section 1-4-9 of this Chapter. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

**b. Conditions Applied:** Conditions applied to a permit may include, but are not limited to, the following:

- (1) Modification of waste treatment and water supply facilities.
- (2) Limitations on period of use, occupancy, and operation.
- (3) Imposition of operational controls, sureties, and deed restrictions.
- (4) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- (5) Floodproofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

#### **1-4-8: DEVELOPMENT PERMITS AND APPLICATIONS:**

**A. General Requirements:**

1. **Permit Required Prior to Development:** It shall be unlawful for any person to commence development without first obtaining a development permit.
2. **Subdivision Approval:** No subdivision plat shall be approved unless all lots of said subdivision abut a public right of way or have deeded access to a public right of way.
3. **Compliance Required:** Before a permit is issued, the terms of all Township ordinances shall be met.

**B. Application:** Application for a permit shall be made to the administrative officer or other designated official on the forms provided. The application shall include the necessary information so that the administrative officer or designated official can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

1. **Information Required; Issuance:** Applications for any kind of development permit shall contain such information as may be deemed necessary for proper enforcement of this Ordinance. Development permits shall be issued only after determining that the application, building plans or plats comply with the terms of this Ordinance.
2. **Certification of Building Elevations:** In flood plain districts, the applicant shall be required to submit certification by a registered professional engineer, registered architect or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. Floodproofing measures shall be certified by a registered professional engineer or registered architect.
3. **Record of Elevations:** In flood plain districts, the Zoning Administrator shall maintain a record of the elevation of the first floor (including basement) of all structures or additions to existing structures. The Zoning Administrator shall also maintain a record of the elevations to which structures or additions to structures are floodproofed.

**C. Permits from Other Agencies:** All proposed development will be reviewed by the Zoning Administrator to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the

Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

- D. Staff Review:** Within ten (10) working days, the Zoning Administrator must take action to either approve, reject or refer to the appropriate Township authority any application for construction of any building or the use of any land or building.
- E. Unapproved Use, Arrangement or Construction Prohibited:** Development permits issued on the basis of approved plans and applications, or as written order shall authorize only the use, arrangement of lots or buildings and construction set forth in such approval plans and applications and no other use, arrangement or construction. Any use, arrangement or construction at variance with that authorized or required shall be deemed a violation of this Ordinance.
- F. Involuntary Loss:** In cases of involuntary loss through catastrophe, such as fire, wind, etc., no fee shall be charged in these instances for a permit to redevelop.
- G. Final Inspection:** The holder of every development permit involving construction shall notify the Zoning Administrator immediately upon completion of work authorized by such permit for a final inspection.
- H. Term of Permit:** If the start of construction of any development described in a development permit has not begun within six (6) months from the date of issuance thereof, said permit shall expire. If the construction described in any development permit has not been substantially completed within one year of the date of issuance thereof, said permit shall expire and be cancelled by the administrative officer. Written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new permit has been obtained.
- I. Failure to Obtain Permit:** Failure to obtain a development permit shall be deemed a violation of this Ordinance and shall be punishable as provided in Section 1-4-9 of this Chapter.
- J. Violation:** Any use, arrangement, construction or occupancy different than that authorized by permit shall be deemed a violation of this Ordinance and shall be punishable as provided in Section 1-4-9 of this Chapter.
- K. Specific Permits Required:**
  - 1. Construction of Buildings or Additions:** A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by **Sections 1-3B-10 through 1-3B-12** of this Ordinance.
  - 2. Nonconforming Sewage Treatment System:** A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by **Section 1-3B-19 of this Ordinance**, shall be reconstructed or replaced in accordance with the provisions of this Ordinance.
- L. Certificate of Zoning Compliance:** In Flood Hazard Zone and shoreland districts it shall be unlawful to use, occupy or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered or enlarged in its use or structure until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance. Where a nonconforming use or structure is extended or substantially altered, the certificate of zoning compliance shall specifically state the manner in which the nonconforming structure differs from the provisions of this Ordinance.
- M. Certificate of Occupancy:** A copy of certificates of occupancy shall be filed with the Department of Natural Resources for their records.
- N. Permits in Flood Hazard Zones:** A Permit issued by the Zoning Administrator in conformity with

the provisions of this Ordinance shall be obtained prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood hazard zone.

- O. Notification for Watercourse Alterations:** The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- P. Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation:** As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

#### **1-4-9: VIOLATION, PENALTIES AND ENFORCEMENT:**

- A. Violation; Penalty:** Any person who violates the provisions of this Ordinance, fails to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or conditional uses, or makes any false statement in any document required to be submitted under the provisions thereof shall be guilty of a misdemeanor and shall be punished as defined by law.
- B. After the Fact Permits:**

Any person making application for a permit after the commencement of work requiring a permit, shall be charged an additional administrative fee as established by resolution of the Township Board. In the event the application for a permit is denied or the action permitted does not include all or part of the work commenced prior to approval of said permit, the review and approval body shall require correction and/or restoration of the concerned property to its original state, including removal of structures or improvements.
- C. Enforcement:**
  - 1. Administrative Officer:** The Zoning Administrator, Planning Director or other appointed official is responsible for the administration and enforcement of this Ordinance.
  - 2. Additional Actions or Proceedings:** In the event of a violation or threatened violation of this Ordinance, the administrative officer, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.
  - 3. Suspected Ordinance Violation:** In responding to a suspected ordinance violation, the Zoning Administrator and Township Board may utilize the full array of enforcement actions available to it, including, but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. After the fact permits are permits applied for after construction or use has been initiated. The Township must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize

its eligibility in the National Flood Insurance Program.

4. **Discovery of Violation:** When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As required and as soon as is reasonably possible, this information will be submitted to the appropriate agency, Department of Natural Resources and/or Federal Emergency Management Agency Regional Office, along with the Township's plan of action to correct the violation to the degree possible.
5. **Notification of Violation and Remedies:** The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Township. A permit or approval applied for after construction or use has been initiated, an after the fact permit, shall be subject to an administrative remedy for failure to comply comprised of an increased application fee. After the fact application for a permit does not guarantee approval. If the construction or development is already completed, then the Zoning Administrator may either: a) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or b) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed thirty (30) days.
6. **Failure to Comply:** If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.
7. **Mandamus Proceedings:** Any taxpayer or taxpayers of the Township may institute mandamus proceedings in the District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.