

FLORENCE TOWNSHIP ZONING ORDINANCE

Florence Township
Goodhue County, Minnesota
Amended 05/18/15

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SECTION 1: TITLE AND ADOPTION

1.1 Title

This Ordinance shall be known, cited and referred to as the Florence Township Zoning Ordinance.

1.2 Adoption

This Ordinance is adopted and ordained pursuant to the authority granted to Florence Township in Minnesota Statutes Sections 462.351 to 462.364. This Ordinance shall be effective, valid and enforceable upon (i) final approval by the Florence Township Board of Supervisors and (ii) publication as required by law.

1.3 Jurisdiction

This Ordinance shall apply to all areas located within the boundaries of Florence Township, Goodhue County, Minnesota.

1.4 Repeal of Prior Zoning Ordinances

This Ordinance supersedes and repeals all prior Florence Township zoning ordinances, and all amendments to such zoning ordinances.

SECTION 2: PURPOSE

2.1 Purpose

This Ordinance regulates the use of land within Florence Township for the purpose of:

- Protecting the public health, order, safety, convenience and general welfare.
- Protecting and preserving agriculture and the business, culture and livelihood of farming activities.
- Conserving the natural and scenic beauty of Florence Township.
- Conserving the natural resources of Florence Township, including bluffs, streams, shorelines, wetlands, woodlands, soils, groundwater, and recharge areas.
- Minimizing pollution from human activities.
- Minimizing the fragmentation and development of agricultural, forest, wildlife, wetlands, shoreland, and open space areas.
- Protecting existing businesses and facilities.
- Promoting orderly development, without conflict, of residential, agricultural, commercial, recreational and public areas.
- Providing for the compatibility of different land uses and the most appropriate uses of land throughout Florence Township.
- Encouraging cooperation among federal, state and local government agencies to help achieve land use policy goals.

- Fair and efficient enforcement of land use regulations, including the discontinuance of existing uses.
- Ensuring fair and non-discriminatory administration of this Ordinance by allowing administrative decisions to be appealed through an orderly process.

2.2 Relation to Comprehensive Land Use Plan

Florence Township has previously adopted a comprehensive land use plan to identify the land use goals and priorities of the township. Florence Township recognizes the township comprehensive land use plan as the policy to regulate land use and development in accordance with the purpose and policies identified in this Ordinance.

SECTION 3: GOODHUE COUNTY ZONING ORDINANCE

3.1 Acknowledgement of Goodhue County Zoning Ordinance

This Ordinance acknowledges that Goodhue County has previously adopted and ordained a Goodhue County Zoning Ordinance (County Ordinance) that regulates the use of land throughout Goodhue County, including Florence Township.

3.2 Enforcement of County Ordinance

The adoption of this Ordinance by Florence Township shall not be construed as requiring Florence Township to adopt or enforce the County Ordinance. Florence Township will not be obligated to enforce any provision, rule, prohibition, or regulation contained in the County Ordinance, unless such provision, rule, prohibition or regulation is expressly adopted in this Ordinance.

3.3 Adoption by Reference

Certain provisions of this Ordinance will expressly adopt comparable provisions of the County Ordinance by reference to avoid restating provisions of the County Ordinance in full in this Ordinance.

SECTION 4: ORDINANCE INTERPRETATION

4.1 Uses Not Expressly Permitted or Prohibited

If any use within a zoning district is not expressly permitted or allowed, by conditional, interim or other permit, in this Ordinance, such use shall be considered prohibited. All permitted and allowed uses shall be expressly identified in this Ordinance. If any use is prohibited, the Township Board or Township Planning Commission, on their initiative or upon request of a property owner, may conduct a study to determine if such use is acceptable and appropriate for a zoning district. No land shall be used for any purpose other than a permitted use expressly allowed under this Ordinance,

except for (i) uses lawfully established prior to the effective date of this Ordinance, or (ii) conditional uses allowed in accordance with this Ordinance.

4.2 Severability

If any section, provision or portion of this Ordinance is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected by such decision. 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 such decision to any other property, building, or structure not specifically included in such decision.

SECTION 5: GENERAL DEFINITIONS

5.1 The word “person” includes an individual, firm, organization, partnership, corporation, trust, government agency, or any other entity.

5.2 The words “shall” and “must” are mandatory, and the word “may” is permissive.

5.3 The present tense includes the past and future tenses.

5.4 The phrase “interim use” means a temporary use of property until a particular date or until Florence Township land use regulations prohibit such use.

5.5 The word “township” means Florence Township, Goodhue County, Minnesota.

5.6 The phrase “Township Board” means the Florence Township board of supervisors.

5.7 The phrase “Planning Commission” means the Florence Township planning commission.

5.8 The phrase “Board of Appeals and Adjustments” means the Florence Township board of appeals and adjustments.

5.9 The phrase “Zoning Administrator” means the person appointed by the Township Board to serve as the Florence Township zoning administrator.

5.10 The word “structure” means anything constructed or erected on the ground or attached to the ground, including, but not limited to, building, factory, shed, house, detached garage, cabin, manufactured home, berm, dam, travel trailer/vehicle.

5.11 The word “variance” means any modification or variation of land use rules where it is determined that, by reason of exceptional circumstances, the strict enforcement of the land use rules would cause unnecessary practical difficulties.

SECTION 6: ADMINISTRATION

6.1 Zoning Administrator. The Township Board may appoint a person to serve as the Zoning Administrator for the Township. The Zoning Administrator may be a township officer.

(a) Duties.

The Zoning Administrator may have the following duties, which shall be conducted in a manner consistent with this Ordinance, applicable laws, and the directions and instructions of the Township Board:

- (1) Administer the provisions of this Ordinance.
- (2) Determine whether a permit application submitted by an applicant is complete and complies with the terms of this Ordinance.
- (3) Receive, and forward to the Planning Commission, Board of Appeals and Adjustments, or Township Board applications and other zoning materials as appropriate.
- (4) Issue permits after they have been approved by the Township Board, as provided in this Ordinance.
- (5) Issue notices of denial to applicants after their applications have been denied by the Township Board, as provided in this Ordinance.
- (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, 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 Goodhue County Recorder or Registrar of Titles all documents required to be filed by law.

(12) Enforce this Ordinance, including through the issuance of violation notices, stop work orders, cease and desist orders, or corrective orders as determined appropriate, and to work with the Township Attorney as needed to administer and enforce this Ordinance.

(13) Perform such other duties and responsibilities as provided in this Ordinance or as assigned by the Township Board.

The Township Board will have the sole power and authority to approve or deny applications for permits. The Zoning Administrator will not have any power or authority to approve or deny applications for permits.

6.2 Planning Commission.

The Township Board previously established the Florence Township Planning Commission, which is hereby reaffirmed as the Township's planning agency. The Planning Commission serves in an advisory capacity to the Township Board.

(a) Composition.

The Planning Commission consists of up to 9 voting members, which may include one or more Township officers. A majority of members constitutes a quorum to conduct the Planning Commission's business. Each Planning Commission member, including the Chair and Vice-Chair, shall have one vote on all matters acted upon by the Planning Commission. A member must be present at a meeting to vote.

(b) Appointment, Vacancies and Removal.

The Township Board appoints the Planning Commission members. Vacancies occurring on the Planning Commission are filled by Township Board appointment for the remainder of the term of the position.

(c) Term.

Planning Commission members are appointed for a term of 3 years and until a successor is appointed and qualifies. Terms expire on April 1st. Commission members serve at the pleasure of the Township Board and may be removed by the Township Board at any time. The Township Board shall stagger the terms of Planning Commission members as it determines is appropriate to minimize the number of Planning Commission positions expiring in the same year.

(d) Officers and Duties.

The Planning Commission shall appoint from among its members a Chair, Vice-Chair, and a Secretary. The Chair shall be the presiding officer for Commission meetings and shall sign documents on behalf of the Commission as needed. The Vice-Chair shall conduct the duties of the Chair in the Chair's absence. The Secretary shall provide notices, keep records of the Commission's proceedings, and countersign the Chair's signature on Commission documents.

(e) Rules and Procedures.

The Planning Commission 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.

(f) Meetings.

The Planning Commission shall hold regular meetings as needed. The Chair or Vice-Chair, along with the consent of at least one other Planning Commission member, may call special meetings as needed to conduct the Planning Commission's business.

(g) Planning Commission Powers and Duties.

The Planning Commission shall have the powers and duties provided it by Minnesota Statutes, chapter 462, those indicated in this Ordinance, and such other powers and duties as the Township Board may delegate to it. Unless directed otherwise by the Township Board, the Planning Commission shall be responsible for conduct such hearings as may be required by law or by ordinance to implement and administer the Township's official controls. The Planning Commission does not have the authority to hire professionals or to otherwise bind the Township to a contract.

6.3 Florence Township Heritage Preservation Commission.

The Township Board previously established the Florence Township Heritage Preservation Commission, which is hereby reaffirmed as an advisory committee to review proposed construction and development in the Florence Township Historic District.

6.4 Board of Appeals and Adjustments. The Township Board shall serve as the Florence Township Board of Appeals and Adjustments.

(a) 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 Minnesota law and this Ordinance.

(b) 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 Township Board.

(c) Powers and Duties.

The Board of Appeals and Adjustments shall have the following powers and duties:

- (1) 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 by Minnesota law and this Ordinance.
- (2) To hear and decide appeals. Appeals shall only be heard and considered in conformance with the procedures prescribed in this Ordinance.
- (3) To interpret the provisions of this Ordinance and of any district boundary on the land use map.

6.5 Florence Township Parks Commission

The Township Board previously established the Florence Township Parks Commission, which is hereby reaffirmed as an advisory committee to review proposed construction, restoration, maintenance and development in the township parks.

SECTION 7: ZONING DISTRICTS AND MAP

7.1 Zoning Districts

The following zoning districts are hereby created within Florence Township:

- (a) Residential (R-1);
- (b) Agricultural Protection (A-1);
- (c) Agricultural (A-2);
- (d) General Business (B-1);
- (e) Highway Business (B-2);
- (f) Old Frontenac Historic District (R-FHD-1);
- (g) Mixed Use Hamlet (MXH); and
- (h) Commercial Recreational (CR).

7.2 Sensitive Features Overlay Districts

The following overlay districts are hereby created within Florence Township that may apply to portions of primary zoning districts:

- (a) Floodplain
- (b) Shoreland
- (c) Wetland
- (d) Bluffs
- (e) Karst

7.3 Zoning District Map

Florence Township has adopted a map of the zoning districts established in this Ordinance. A description of the zoning districts by section is attached to the zoning map. The boundaries and locations of such zoning districts are shown on the zoning map. The boundaries of zoning districts, unless otherwise shown, are the center line of streets, roads, alleys or the boundary lines of recorded plats or railroad rights-of-way. The official Florence Township Zoning Map is the copy on file with the Township Clerk and is incorporated herein by reference. The Township Zoning Map establishes districts and district boundaries that differ in some respects from the County Zoning Map. Some properties within Florence Township may be zoned differently by the Township and County, and may also be subject to an overlay zone that further affects the allowed uses and regulations applicable to the property.

7.4 District Boundary Interpretation

If interpretation of the exact location of boundaries shall be required, the Township Board of Adjustment shall make the necessary interpretation based upon available technical data.

SECTION 8: USES BY DISTRICT

The following uses are allowed in their respective identified districts:

8.1 Residential (R-1).

In the R-1 district, no structure or land shall be used and no structure shall be erected, converted or structurally altered, except in compliance with the following permitted uses and standards:

(a) Single and two family dwellings and accessory buildings are allowed as permitted uses.

(b) Public parks, play grounds and golf courses are allowed as a conditional use.

(c) Churches, public, parochial and private schools are allowed as a conditional use.

(d) Public buildings and public library, museums, art and historic are allowed as a conditional use.

(e) General gardening is a permitted use.

(f) Commercial greenhouse and nurseries are allowed as a conditional use.

(g) Permanent stands for the sale of agricultural products produced on the premises are allowed as a conditional use.

(h) Building lines shall be determined by Township Board, but there shall be at least thirty (30) feet of space between dwellings.

(i) No new dwelling shall be erected on a lot or tract of land where the front line is less than 100 feet in length except in Frontenac Station where that front line shall be not less than 80 feet, and in each case not less than 20,000 square feet.

(j) Family Dwellings. No building may be erected that cannot qualify as a family dwelling, such as a small structure like a garage to be used only temporarily as a home.

(k) Customary Home Occupations. Customary home occupations are permitted in this district provided that such occupations shall be carried on in the main residence structure and provided further than not more than 25 percent of the floor space of the residence is used for that purpose, and that no articles for sale

shall be displayed so as to be visible from the street. Home occupations shall not be conducted in this district unless a conditional use permit therefore has first been obtained. Bed and Breakfast facilities are permissible as home occupations provided they are operated in accordance with all applicable regulations.

8.2 Agricultural Protection (A-1).

All of the permitted, interim and conditional uses identified in Article 20 of the County Ordinance for the Agricultural Protection (A-1) zoning district are permitted in Florence Township. However, the mining, quarrying, excavating or filling of land, as described in Article 20 of the County Ordinance, shall be prohibited in Florence Township, except as may be permitted by interim use in Section 10 of this Ordinance.

8.3 Agricultural (A-2).

All of the permitted, interim and conditional uses identified in Article 21 of the County Ordinance for the Agricultural (A-2) zoning district are permitted in Florence Township. However, the mining, quarrying, excavating or filling of land, as described in Article 21 of the County Ordinance, shall be prohibited in Florence Township, except as may be permitted by interim use in Section 10 of this Ordinance.

8.4 General Business (B-1).

In the B-1 district, no structure or land shall be used and no structure shall be erected, converted or structurally altered except in compliance with the following uses and standards:

- (a) Any use allowed in R-1 District.
- (b) Retail stores and shops.
- (c) Restaurants, hotels, motels, taverns, tourist room or boardinghouse, offices, studios, and banks.
- (d) Public garages, service stations, automobile sales agencies, used car lots.
- (e) Newspaper publishing.
- (f) Theatres.
- (g) Any use of the same general character as any of the above permitted uses.
- (h) Trailer courts.
- (i) Any existing hazardous water holes shall be properly safeguarded to prevent any accidents occurring at such sites.
- (j) Buildings with toilet facilities must be connected to sewage disposal facilities.

8.5 Highway Business (B-2).

In the B-2 district, no structure or land shall be used and no structure shall be erected, converted or structurally altered except in compliance with the following uses and standards:

- (a) Any use allowed in R-1 District.
- (b) Retail stores and shops.
- (c) Restaurants, hotels, motels, taverns, tourist room or boardinghouse, offices, studios, and banks.
- (d) Public garages, service stations, automobile sales agencies, used car lots.
- (e) Newspaper publishing.
- (f) Theatres.
- (g) Any use of the same general character as any of the above permitted uses.
- (h) Trailer courts.
- (i) Any existing hazardous water holes shall be properly safeguarded to prevent any accidents occurring at such sites.
- (j) Buildings with toilet facilities must be connected to sewage disposal facilities.

8.6 Old Frontenac Historic District (R-FHD-1).

In the Old Frontenac Historic District R-FHD-1, no structure or land shall be used and no structure shall be erected, converted, altered or demolished unless permitted in this section and in compliance with the following uses and standards:

- (a) Single family detached dwellings and accessory buildings are allowed as a permitted use.
- (b) Public parks, play grounds and golf courses are allowed as a conditional use.
- (c) Churches, public, parochial and private schools are allowed as a conditional use.
- (d) Public buildings, public library and art and historic museums are allowed as a conditional use.
- (e) All new construction, exterior alterations or subdivisions require review by the Florence Township Heritage Preservation Commission. If an approved project is not begun within one year of said review, another review will be required before approval by the Township Board is granted.
- (f) Yard Requirement. Every permitted, conditionally permitted, or accessory building shall meet the following yard requirements:

Front Yard. There shall be a minimum setback of forty (40) feet from the right-of-way line of any public road or highway: except that, this setback may be reduced to twenty-five feet when such public road is a minor street serving only a residential subdivision. In the event any building is located on a lot at the intersection of two (2) or more roads or highways, such lot shall have a front yard abutting each such road or highway.

Side Yard. Every building shall have two (2) side yards. Each side yard shall have a minimum width of fifteen (15) feet.

Rear Yard. Every building shall have a rear yard. The rear yard shall have minimum depth of eight (8) feet.

(g) In the R-FHD-1 District, no new dwelling shall be erected on a lot or tract of land with a front lot frontage of less than 100 feet in length, or with a lot area of less than 20,000 square feet.

(h) Family Dwellings. No building shall be erected that cannot qualify as a family dwelling, such as a small structure like a garage to be used only temporarily as a home.

(i) Customary Home Occupations. Customary home occupations are allowed as conditional uses in this district provided that such occupations shall be carried on in the main residence structure and provided further that not more than 25 percent of the floor space of the residence is used for that purpose, and that no articles for sale be displayed so as to be visible from the street. Bed and breakfast facilities are allowed as conditional uses provided they are operated in accordance with all applicable regulations.

8.7 Mixed Use Hamlet (MXH).

All of the interim and conditional uses identified in Article 25 of the County Ordinance for the Mixed Use Hamlet (MXH) zoning district are permitted in Florence Township. No new permitted uses are allowed in the Mixed Use Hamlet (MXH) zoning district. All proposed new uses will require an interim or conditional use permit.

8.8 Commercial Recreational (CR).

All of the permitted, interim and conditional uses identified in Article 29 of the County Ordinance for the Commercial Recreational (CR) zoning district are permitted in Florence Township.

SECTION 9: PROTECTION OF SENSITIVE NATURAL FEATURES

9.1 Purpose

The purpose of the natural features overlay districts is to conserve the sensitive and unique environmental areas of Florence Township by implementing policies contained in the Comprehensive Plan as well as Federal and Minnesota policies and statutes. The focus of the Florence Township natural features overlay districts includes the critical ecological and environmental attributes found throughout the township in the forms of shorelands, floodplains, wetlands, steep slopes, bluff lands, karst features, archaeological sites, and burial grounds. The overlay district has the goal of protecting the public from injury and property damage due to flooding, erosion, and other natural hazards that may be intensified by developing environmentally sensitive lands. An additional goal of the overlay district is protecting natural resources for their public benefits. These resources include surface and ground water, riparian buffer areas, ground water recharge areas, and native plant and animal communities. Despite an emphasis on conservation to ensure the continued presence of natural areas, the overlay district still recognizes the ability of residents to pursue reasonable uses of properties by permitting appropriate development activities adhering to the provisions listed in this section. Specifically, Florence Township has composed the natural features overlay district to protect and conserve natural features for the following reasons as portrayed in the township comprehensive plan:

- (1) The intrinsic value of natural areas and wildlife;
- (2) Flood control and the treatment of stormwater runoff;
- (3) Acknowledgment of historic resources and their educational and artistic significance;
- (4) Recreational amenities; and
- (5) Aesthetic and quality of life contributions.

9.2 Organization

The natural features overlay districts section is a comprehensive approach of applying multiple, natural system overlays to manage activities in areas designated as shoreland, floodplain, wetland, karst, and steep slopes/bluffs, as well as the protection of historically significant sites within Florence Township. Overlay zoning is a means for the township to superimpose a higher level of regulations for special areas in the underlying districts. The natural features overlay districts shall be managed consistent with the comparable overlay districts of Goodhue County.

9.3 Protection of Sensitive Features. Whenever a land use, building or other zoning-related permit is required by the township, or when a driveway or other permanent alteration of topography is created, the permit or approval shall require that the proposed improvement be conducted or placed outside of an identified sensitive features area, except in the following situations:

(a) General farming, pasture, grazing, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting that do not involve structures, roads or other such improvements may be allowed in identified sensitive features areas provided they engage in best management practices that are required by any federal, state or local loan, payment or grant program.

(b) Nonconforming structures may be replaced in accordance with Minnesota Statutes, section 462.357 and this Ordinance without regard to the requirements of this section, provided that their replacement or reconstruction does not create a significant hazard potential or worsen an existing hazard potential.

9.4 Mitigation Requirements Regarding Sensitive Features. If Florence Township determines that a proposed project or development should be allowed and permitted in the location of an identified sensitive natural feature, the township shall require the property owner to incorporate best management practices to mitigate the effects of the improvement on the sensitive feature, as identified by this ordinance or otherwise required by the Township:

9.5 Floodplains.

The following performance standards for floodplains are adopted, in addition to those performance standards required by Article 31 of the County Ordinance:

(a) No structures, fill or other alteration of natural conditions shall be allowed within a designated floodway, except as shall be approved by the Township Board for flood control or protection of public health, welfare and safety and in accordance with applicable county, state or federal regulations, or unless expressly excepted by this Ordinance.

(b) Any structure constructed within a designated flood fringe shall be elevated to a minimum of three (3) feet above the regional flood elevation and meet all other local, state and federal requirements. Vehicular access sufficient for emergency vehicles shall be provided to such structure within two (2) feet of the regional flood elevation.

(c) If the floodway, flood fringe, or floodplain boundaries are unknown or unclear, Florence Township shall require the property owner to provide such information as determined by a qualified professional surveyor to determine the district.

9.6 Wetlands.

The following performance standards for wetlands are adopted, in addition to those performance standards required by Article 32 of the County Ordinance:

(a) Clear-cutting of vegetation within 50 feet of a wetland shall not be allowed.

(b) No structures, fill or other alteration of natural conditions shall be allowed within a designated wetland, except as shall be permitted under the Minnesota Wetland Conservation Act or successor regulations.

(c) No structures, fill or other alteration of natural conditions shall be allowed within 100 feet of a designated wetland.

(d) Structures, fill, excavation, grading, or other improvements within 150 feet of a wetland shall, in adherence with commonly accepted best management practices, be required to:

(i) Create conditions or install improvements to ensure temporary and permanent erosion and sedimentation control. These shall be substantially completed prior to any disturbance of the site. These improvements include, but not limited to earth berms, rain gardens, retention basins, swales and similar improvements.

(ii) Store, infiltrate or filter at least 1/2 inch of rain from all impervious surfaces within the 150 foot buffer area. These shall be substantially completed prior to any disturbance of the site.

These standards shall not apply to farm ponds created to mitigate the effects of normal farming practices.

9.7 Bluffs.

The following performance standards for bluffs are adopted, in addition to those performance standards required by the County Ordinance:

(a) Clear-cutting of vegetation within (i) 100 feet of the toe or (ii) 200 feet of the top, of a bluff shall not be allowed.

(b) No structure, fill, or other alteration of natural conditions shall be allowed within (i) 100 feet of the toe or (ii) 200 feet of the top, of a bluff, except as shall be permitted for the purpose of restoration or stabilization of the natural conditions or for mitigation of an existing erosion hazard. Stairways, when necessary for traversing the bluff, shall be exempted from this requirement.

(c) The Township may require a survey, prepared by a licensed surveyor, to determine the top or toe of a bluff if the top or toe cannot be determined by the property owner or the Township.

(d) Structures, fill, excavation, grading or other improvements within 500 feet of the top of a bluff may be required to:

(i) Provide a survey of the area from a licensed surveyor identifying the elevation of the top of the bluff and elevation contours for the entire bluff and the setback area of (i) 100 feet of the toe or (ii) 200 feet of the top. Contours shall be a minimum of 2 feet within the setback area.

(ii) The bluff shall be identified with easily visible stakes, flags, fences or other means throughout the construction process.

(e) In adherence with commonly accepted best management practices, create conditions or install improvements to:

(i) Ensure temporary and permanent erosion and sedimentation control. These shall be substantially completed prior to any disturbance of the site. These improvements include, but not limited to earth berms, rain gardens, retention basins, swales and similar improvements.

(ii) Store, infiltrate or filter at least 1/2 inch of rain from all impervious surfaces within the setback area of (i) 100 feet of the toe or (ii) 200 feet of the top. These shall be substantially completed prior to any disturbance of the site.

9.8 Shoreland

The performance standards for shoreland required by Article 30 of the County Ordinance are adopted for administration and enforcement by this township.

9.9 Karst Features

(a) Performance Standards

The performance standards for identified areas containing karst features are adopted for administration and enforcement by this township:

(1) The dumping of refuse, garbage, sewage, barnyard waste, carcasses, chemicals, hazardous waste in sinkholes is prohibited.

(2) The primary or initial responsibility of cleaning up sinkholes shall fall on the party or parties who have deposited or who are depositing prohibited materials into a sinkhole. In the event that a primary or initial responsible party cannot be determined, it shall be the responsibility of the

land occupier to clean up the sinkholes on the property owned by the land occupier.

(3) Proposed structures must maintain a setback of one hundred (100) feet from any known sinkhole, if the sinkhole has been grouted using approved SWCD methods to complete such activity the setback is not required.

(4) Proposed septic drainfields and tanks must maintain a setback of 100 feet from any known sinkhole.

(5) Stormwater should be diverted away or around any known sinkhole.

SECTION 10: EXCAVATION AND MINING

10.1 Township Findings on Excavation and Mining

The Florence Township board of supervisors, planning commission, businesses and residents have spent many hours studying the potential impacts of mining, processing and transporting both construction and industrial minerals. The Florence Township board of supervisors has made the following findings regarding the mining, processing and transportation of construction and industrial minerals in Florence Township:

(a) Florence Township developed and adopted an extensive comprehensive land use plan in 2003. That comprehensive land use plan requires the township to *remain primarily a rural, scenic community with historical integrity, recreational facilities, and dedicated agricultural and commercial areas.*

(b) Florence Township has numerous natural areas, sensitive bluffs, shoreland, and wetland areas that justify and require special land use protection.

(c) Florence Township has primarily agricultural, residential, and historic residential/commercial areas. Florence Township does not contain any industrial or manufacturing areas.

(d) Florence Township possesses some limited areas containing construction minerals which are mined for repairing and maintaining roads throughout the region, and providing bedding and other materials for farming and construction.

(e) Businesses and residents of Florence Township are concerned about potential adverse impacts of (i) reduction of water resources, (ii) unhealthy air emissions, (iii) substantial damage to township and county roads, (iv) contamination of streams and aquifers, (v) damage to bluffs and wetlands, and (vi) other

environmental problems, if Florence Township should allow the mining, processing and transporting of industrial minerals to occur within the township.

(f) Businesses and residents of Florence Township are concerned that adding the mining and processing of large-scale industrial minerals to the already existing limited mining of construction minerals would create a highly industrialized township, contrary to the goals and purposes contained in the township comprehensive land use plan.

(g) In 2011, Goodhue County approved a county-wide moratorium on silica sand mining for the purpose of determining the impacts of that proposed land use on county residents, businesses, agriculture and the environment. Ultimately, Goodhue County revised its zoning ordinance to provide for stricter regulation of mining.

(h) The neighboring City of Red Wing and other Goodhue County communities have expressed concern that *there is almost no information available about health hazards related to casual or ambient exposure to silica sand particulate*, and have urged the State of Minnesota to develop statewide standards in regulating industrial minerals mining to protect the entire Southeastern Minnesota region.

(i) Florence Township is not attempting to regulate a mineral or product. Florence Township seeks to regulate a mining process. The Florence Township board of supervisors recognizes that the land use operations for mining and processing industrial minerals are very different than the land use operations for mining and processing construction minerals. The industrial minerals mining land use operations are larger-scaled industrial, consume more appropriated water, require more concentrated heavy truck hauling traffic to single destinations, and embrace other differences than the mining of construction minerals. The Minnesota Department of Natural Resources recognizes this mining land use process difference in its different rules for the leasing of state-owned lands for mining industrial minerals and construction minerals.

(j) The Florence Township board of supervisors determines that large-scale mining and the mining and processing of industrial minerals are incompatible with (i) this township's comprehensive land use plan, (ii) the non-industrial character of this township, (iii) the need to protect the sensitive natural features prevalent throughout this township, (iv) concerns about unhealthy exposure to ambient air emissions of mining industrial minerals, (v) the need to protect sensitive streams, aquifers and water resources in this township, and (vi) the need to protect agricultural, residential, and historic residential/commercial areas.

10.2 Purpose

The purpose of this section on excavation and mining is to (i) protect natural landscapes from excessive excavation and mining activity, (ii) protect water resources, aquifers, streams, and rivers from excessive contamination and

appropriation, (iii) minimize soil erosion, (iv) protect agricultural land and farming activity, (v) prohibit large-scale extraction and mining of industrial minerals, (vi) protect existing recreational and tourist businesses, (vii) protect residents from unhealthy air emissions from mining activity, (viii) prevent the industrialization of agricultural, open space and residential communities, (ix) minimize road and bridge damage from high-volume and heavy truck traffic hauling industrial minerals, and (x) minimize land use conflicts.

10.3 Definitions

(a) Excavation and Mining.

The terms “excavation and mining” include but are not limited to (i) any process or method of digging, excavating, mining, drilling, blasting, tunneling, dredging, stripping, or removing metals, minerals, or materials from the land surface or underground, (ii) the processing, washing, cleaning, screening, filtering, sorting, stockpiling and storage of all excavated or mined minerals and materials, and (iii) the removal and transportation of all excavated and mined minerals and materials. The terms “excavation and mining” apply to all activity occurring at excavation or mining sites, including sites identified as quarries and sand pits.

(b) Construction Minerals.

The term “construction minerals” includes natural common rock, stone, aggregate, gravel and sand that is produced and used for local construction purposes, including road pavement, unpaved road gravel or cover, concrete, asphalt, building and dimension stone, railroad ballast, decorative stone, retaining walls, revetment stone, riprap, mortar sand, construction lime, agricultural lime and bedding sand for livestock operations, sewer and septic systems, landfills, and sand blasting. The term “construction minerals” does not include “industrial minerals and metals” as defined in Section 10.3(c).

(c) Industrial Minerals.

The term “industrial minerals” includes naturally existing high quartz level stone, silica sand, quartz, graphite, diamonds, gemstones, kaolin, and other similar minerals used in industrial applications, but excluding construction minerals as defined in Section 10.3(b). Industrial minerals may be used, among several industrial uses, as a proppant for the hydraulic fracturing of shale for oil and gas production. Silica sand is categorized as an industrial mineral by the Minnesota Department of Natural Resources and the North American Industry Classification System under classification no. 212322.

(d) Processing of Industrial Minerals.

The term “processing of industrial minerals” includes the processing, washing, cleaning, screening, filtering, sorting, stockpiling and storage of all excavated or

mined industrial minerals, whether at the mining site or any other place in Florence Township.

- (e) Transfer Facility.

The term “Transfer Facility” means a developed facility designed for transporting and loading extracted or mined minerals onto rail, barge or truck for destinations outside Florence Township.

10.4 Excavation and Mining of Construction Minerals

(a) No person shall construct, develop, or operate any facility that engages in the excavation or mining of construction minerals without first obtaining an interim use permit from Florence Township. No person shall engage in the excavation or mining of construction minerals without first obtaining an interim use permit from Florence Township. An application for interim use permit for the excavation or mining of construction minerals shall contain all of the information required in Article 14, Section 5 of the County Ordinance.

(b) No new or proposed expanded project for the excavation or mining of construction minerals shall exceed 40 acres in total boundary size of the property to be excavated or mined, without reclamation of previously mined acreage.

(c) No more than 6 mining sites for the excavation and mining of construction minerals, including all existing construction minerals mining sites, shall be allowed at any time in Florence Township. If 6 mining sites for the excavation and mining of construction minerals are in operation at any time, no permit will be issued to any proposed new projects for the excavation and mining of construction minerals until at least 1 of the existing mining sites becomes officially inactive and is no longer permitted by Goodhue County.

(d) No person shall use or apply any flocculants or other chemicals to construction minerals, at a mining site or any other site in Florence Township.

(e) Mining operations at the mining site will be Monday through Friday from 7:00 am to 7:00 pm., and Saturday from 7:00 am to 12:00 noon. Mining operations will not be conducted on federally observed holidays or on Sundays.

(f) An application for an interim use permit shall be submitted and processed in accordance with the procedures established in this Ordinance. Florence Township may consider any factor in evaluating an application for interim use permit for the excavation or mining of construction minerals, including, but not limited to, the impacts the proposed operation is to likely have on the environment, surrounding property owners and residents, and public infrastructure. Florence Township may impose such reasonable conditions and restrictions on an interim use

permit, including, but not limited to, the conditions identified in Article 14, Section 5, Subd. 3, paragraph E of the County Ordinance.

10.5 Existing Operations for the Excavation and Mining of Construction Minerals

(a) If any person is lawfully engaged in the excavation and mining of construction minerals in Florence Township, as of the effective date of this Ordinance, having obtained a conditional use permit for such excavation and mining operation from Goodhue County under the County Ordinance, such person may continue to engage in the excavation and mining of construction minerals at such permitted mining site.

(b) The total area of an existing mining operation shall be limited to the area identified in the conditional use permit issued by Goodhue County. No person shall engage in any excavation and mining of construction minerals beyond the area identified in the conditional use permit issued by Goodhue County, without the prior permission of Florence Township.

(c) If any person lawfully engaged in the excavation and mining of construction minerals in Florence Township proposes to expand the area of excavating and mining construction minerals beyond the area identified in the conditional use permit issued by Goodhue County, such person shall apply to Florence Township for an interim use permit for such expanded mining operation.

10.6 Excavation and Mining of Industrial Minerals

(a) The excavation and mining of industrial minerals in Florence Township is prohibited. No person shall construct, develop or operate any facility in Florence Township that engages in the excavation and mining of industrial minerals. No person shall engage in the excavation or mining of industrial minerals in Florence Township. The Florence Township Board shall not issue a permit to any person to engage in the excavation and mining of industrial minerals in Florence Township.

(b) No person lawfully engaged in the excavation and mining of construction minerals in Florence Township shall construct, develop or engage in the excavation and mining of industrial minerals in Florence Township.

10.7 Processing of Industrial Minerals

(a) No person shall construct, develop or operate any facility for the processing or washing of industrial minerals, or engage in the processing or washing of industrial minerals, at a mining site or any other site in Florence Township. The Florence Township Board shall not issue a permit to any person to engage in the processing of industrial minerals in Florence Township.

(b) No person shall use or apply any flocculants or other chemicals to industrial minerals, at a mining site or any other site in Florence Township.

10.8 Transfer Facilities

No person shall construct or develop any transfer facility, or operate a transfer facility, in Florence Township. The Florence Township Board shall not issue a permit to any person to construct or operate a transfer facility in Florence Township.

10.9 Exemptions from Regulation

The following excavation and mining activities are not prohibited or regulated by this Ordinance, and are allowed without the need for obtaining a permit:

(a) Excavation as a part of constructing a structure for which a zoning permit has been obtained from the Township.

(b) Excavation in a right-of-way, temporary easement, or utility corridor by state, county, city, or township authorities in connection with construction or maintenance of public improvements.

(c) Excavation and mining of construction or industrial minerals of an amount, not exceeding 400 cubic yards annually, that is used only at the property from which such minerals are excavated and mined for agricultural or construction purposes.

SECTION 11: NONCONFORMING USES, STRUCTURES AND LOTS

11.1 Purpose.

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

11.2 Nonconforming Uses and Structures.

Any use or structure lawfully existing on the effective date of this Ordinance, may be continued at the size and in the manner of operation existing upon such date, except

as otherwise provided by law or this Ordinance, and subject to the following conditions:

(a) A nonconforming use or structure shall in no way be expanded, enlarged or extended, either on the same property or onto an adjoining lot of record. Prohibited expansion, enlargement or extension shall include anything that increases the intensity of the use including, but not limited to, a change to a more intense nonconforming use or a physical expansion of the existing use or structure that increases the height, volume or area dimensions of the non-conforming use or structure.

(b) Routine maintenance of a structure containing or relating to a lawful nonconforming use is permitted, including any necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use. Nothing in this section will prevent the placing of a structure into a safe condition after it has been declared unsafe by the building official.

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

(d) Whenever a nonconforming structure or use is damaged by fire or other peril to the extent of 50 percent or less of its estimated market value, as indicated in the records of the County Assessor at the time of damage, it may be reconstructed. The nonconforming structure or use shall not be permitted to be reconstructed if the damage is greater than 50 percent of the estimated market value as indicated in the records of the County Assessor at the time of damage and no building permit has been applied for within 180 days of when the property was damaged. When a nonconforming structure in a shoreland area with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, the structure setback may be increased by the Township or County, if practical. In that event, conditions will be placed on the building permit in order to mitigate created impacts on adjacent properties and the water body.

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

(f) If the nonconforming use of land is discontinued for a period of more than one year, the subsequent use of the land or the structure shall be in conformity with this Ordinance.

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

(h) No repair, replacement, maintenance, improvement or expansion of a nonconforming use or structure in a floodplain area shall be allowed if such activity would jeopardize the property's continued eligibility in the National Flood Insurance Program, would increase flood damage potential, or would increase the degree of obstruction to flood flows in the floodway.

(i) An existing resort may maintain and replace its structures and expand to the extent allowed in Minnesota Statutes, Section 103G.227.

(j) A nonconforming use of a parcel of land shall not be extended to cover more land than was occupied by that use when it became nonconforming.

(k) Lawful preexisting nonconforming lots recorded in the office of the County Recorder located in a shoreland area shall be subject to Minnesota Statutes, section 462.357, subdivision 1e, paragraphs (d) through (j).

11.3 Nonconforming Lots.

(a) All lots of record, existing as of the date of this Ordinance and all prior zoning ordinances in the Township, 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) If the lot is in a shoreland area, it has been in separate ownership from abutting lands at all times since it became nonconforming;
- (4) The setback requirements of this Ordinance are met; and
- (5) The applicable ISTS/SSTS regulations are met.

(b) Lawful preexisting nonconforming lots recorded in the office of the County Recorder located in a shoreland area shall be subject to Minnesota Statutes, section 462.357, subdivision 1e, paragraphs (d) through (j).

(c) A preexisting lot that is subsequently reduced to a residual parcel because of a taking for a public purpose or public right-of-way shall continue to be considered a parcel of record and shall be considered a legally buildable parcel provided the applicable setback requirements of this Ordinance and the ISTS/SSTS standards are met.

SECTION 12: LAND USE REQUESTS

12.1 Land Use Permit

(a) Land Use Permit

A land use permit shall be required by any property owner or user of land for the purpose of siting, constructing, building, operating or engaging in any use of land that is allowed and permitted by this Ordinance.

(b) Application.

An application for a land use permit must be on the Township's approved form, be accompanied by the required application fee, be submitted to the Zoning Administrator, and shall contain all of the following information:

- (1) The location and dimensions of the property;
- (2) Be signed by the owner of the property or the owner's authorized agent;
- (3) Describe fully the nature of the proposed construction, alteration, or repair and the estimated cost;
- (4) Describe fully the proposed use of the land;
- (5) A site plan containing all of the information required under Article 2, Section 4, Subd. 4 of the County Ordinance.

(c) Issuance.

The Township Board is authorized to issue land use permits upon the submission of a complete application and payment of the application fee, provided the Township Board determines the proposed use of the land, and building or structure complies with this Ordinance.

(d) 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.

(e) Penalties.

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.

(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 shall occur until a new land use permit is applied for and obtained from the Township.

12.2 Interim Use Permit

(a) Interim Use Permit.

An interim use permit shall be required by any property owner or user of land for any land use purpose, siting, construction, or operation identified as interim use by this Ordinance.

(b) Application.

Application for an interim use permit shall be made by the property owner, or its authorized agent, 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; 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.

(c) Procedure.

Requests for an interim use permit shall comply, and shall be processed in accordance, with the following:

- (1) An application for an interim use permit must be submitted to the Zoning Administrator. The Zoning Administrator shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required fees. If an application is not complete, the Zoning Administrator shall provide the applicant written notice of what information is needed in order to make the application complete within 15 days of the Township's receipt of the application. The Zoning Administrator shall forward complete applications to the Planning Commission to conduct a hearing.
- (2) 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. 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.
- (3) 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 Township Board 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 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.
- (4) The Planning Commission shall conduct a public hearing on the proposed interim use permit and develop a recommendation to the Township 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 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 permit. If the Planning Commission recommends approval of the permit, its recommendation shall include the conditions it recommends be placed on the permit. 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 recommended conditions may include any of the conditions that may be made applicable to a conditional use permit and shall, at a minimum, include the date and/or event on which the permit will expire. The Planning Commission shall forward its recommendation, together with its supporting findings, to the Township Board.

- (5) The Township Board shall consider the Planning Commission's recommendation and make a final decision regarding the proposed interim use permit. The Township Board shall consider the criteria set out in this Section and such other factors as it determines are appropriate to evaluate the proposed use including, but not limited to, the criteria evaluated by the Planning Commission in making its recommendation. The Township may impose such reasonable conditions as it determines are necessary on interim use permits it issues, including a requirement to provide and maintain with the Township a performance bond or other financial security. An interim use permit must indicate, in the conditions placed on the permit, the date and/or event on which it terminates.

(c) 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 Township 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. The Township 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.

- (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.

(d) Amended Permit.

Any change involving structural alterations, enlargement, intensification of the use or similar change not specifically permitted by an 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.

(e) Expiration 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 expire as of the date or event identified in the permit, but the owner may apply for a new interim use permit. The Township Board shall 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.

12.3 Conditional Use Permit

(a) Conditional Use Permit.

A conditional use permit shall be required by any property owner or user of land for any land use purpose, siting, construction, or operation identified as conditional use by this Ordinance.

(b) Application.

Application for a conditional use permit shall be made by the property owner, or its authorized agent, 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; 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.

(c) Procedure.

Requests for a conditional use permit shall comply, and shall be processed in accordance, with the following:

- (1) An application for a conditional use permit must be submitted to the Zoning Administrator. The Zoning Administrator shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required fees. If an application is not complete, the Zoning Administrator shall provide the applicant written notice of what information is needed in order to make the application complete within 15 days of the Township's receipt of the application. The Zoning Administrator shall forward complete applications to the Planning Commission to conduct a hearing.
- (2) 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. 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.
- (3) 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 Township Board 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 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.

- (4) The Planning Commission shall conduct a public hearing on the proposed conditional use permit and develop a recommendation to the Township 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 Township Board.
- (5) The Township Board shall consider the Planning Commission's recommendation and make a final decision regarding the proposed conditional use permit. The Township 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.

(b) Standards and Criteria.

In addition to any specific criteria or standards this Ordinance contains 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 the proposed use, under the circumstances, would:

- (1) Be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the Township;
- (2) Be harmonious with the general and applicable specific objectives of the Township's Comprehensive Plan;

- (3) Be designed, constructed, operated and maintained to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area;
- (4) Be hazardous or disturbing to existing or future neighboring uses;
- (5) The conditional use will not be injurious to the use and enjoyment of the other property in the immediate vicinity for the purposes already permitted and will not substantially diminish and impair property values within the general vicinity.
- (6) The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding vacant property for uses predominant in the area.
- (7) Adequate utilities, access roads, drainage and other necessary facilities have been, or shall be provided by the applicant.
- (8) Adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration so that none of these will constitute a nuisance and to control lighted signs, if permitted, and other lights in such a manner that no disturbance to neighborhood residents will result.
- (9) Involve uses, activities, processes, materials equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, scenic blight, glare or odors;
- (10) Involve lighting, including lighted signs, that would impair the enjoyment of property and/or property owners in the vicinity or the safety of the traveling public;
- (11) Be in conformance with the provisions of this Ordinance, 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; and
- (12) Adequately provide for parking, current and anticipated traffic congestion, and traffic safety so the use does not become or create a nuisance.

(c) Conditions.

The Township 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 Township Board.

(d) Recording.

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

- (e) 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.
- (f) 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 Township Board shall 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.

12.4 Variance

(a) Purpose

The purpose of this section is to provide for deviations from the literal provisions of this Ordinance in instances where their strict enforcement would cause practical difficulties because of physical circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this Ordinance.

(b) Standards for Evaluating a Variance.

The Board of Appeals and Adjustments shall not grant a variance from the regulations of this Ordinance unless it shall make findings of fact based upon the evidence presented and on the following standards as required by Minnesota Statutes 462.357 Subd. 6:

- (1) The variance request is in harmony with the intent and purpose of the ordinance.
- (2) The variance request is consistent with the comprehensive plan.
- (3) The applicant has established that there are practical difficulties in complying with the official control and proposes to use the property in a reasonable manner.
- (4) The variance request is due to special conditions or circumstances unique to the property not created by owners of the property since enactment of this Ordinance.
- (5) The variance will not alter the essential character of the locality nor substantially impair property values, or the public health, safety or welfare in the vicinity.
- (6) Economic considerations alone do not constitute practical difficulties.
- (7) The variance cannot be alleviated by a reasonable method other than a variance and is the minimum variance which would alleviate the practical difficulty.

(8) The request is not a use variance and shall not have the effect of allowing any use that is not allowed in the zoning district, permit a lower degree of flood protection than the regulatory flood protection elevation or permit standards lower than those required by state law.

(c) Application for Variance

Application for a variance shall set forth reasons that the variance is justified in order to make reasonable use of the land, structure or building. If the Board of Appeals and Adjustments find that the conditions apply to the proposed lot or parcel, the township may grant a variance from the strict application of this Ordinance to relieve such practical difficulties to the degree considered reasonable, provided such relief may be granted without impairing the intent of this Ordinance. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the official controls. 6. The Board of Appeals and Adjustments may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. The Board of Appeals and Adjustments shall arrive at a decision on such appeal or variance in accordance with Minnesota Statute Section 15.99 also known as the "Sixty (60)-day law." It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions.

12.5 Amendments to Zoning Ordinance, Zoning Districts Map, and Comprehensive Land Use Plan

(a) Amendments.

Amendments to this Ordinance, the zoning districts map, including requests to rezone property, and the township comprehensive land use plan shall only occur as provided in this Section.

(b) Initiation of Amendments.

Amendments to this Ordinance the zoning districts map, and the township comprehensive land use plan may be initiated by the Township 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 shall not be acted upon by the Township 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.

(c) Application for Amendment.

A property owner seeking an amendment to this Ordinance or the zoning districts map, including a request to rezone property, shall complete the Township's application form, together with the required application fee and escrow (if required), and the application must, at a minimum, contain all of the following information:

- (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.

(d) Procedure.

Applications for an amendment, including rezoning, shall be processed as follows:

- (1) An application for an amendment must be submitted to the Zoning Administrator. The Zoning Administrator shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required fee. If an application is not complete, the Zoning Administrator shall provide the applicant written notice of what information is needed in order to make the application complete within 15 days of the Township's receipt of the application. The Zoning Administrator shall forward complete applications to the Planning Commission to conduct a hearing.
- (2) Amendments proposed by the Planning Commission to change, amend and modify this Ordinance, the zoning districts map, or the township comprehensive land use plan shall be forwarded in writing to the Township Board for review. If the Township 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 Township Board's authorization and this Section. If the Township Board initiated the amendments, the Planning Commission shall hold a hearing on the proposed amendments in accordance with this section.

- (3) 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.
 - (4) The Planning Commission shall conduct a public hearing on the proposed amendments and develop a recommendation to the Township 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 Township Board for final action.
 - (5) The Township Board shall take action on the proposed amendment at a Township Board meeting. Approval of an amendment shall be by ordinance amending this Ordinance. If the amendment was initiated by application of an owner, the Township shall inform the property owner of the Township Board's decision.
- (d) **Limit on Similar Applications:** No application of an owner for an amendment to the text of the Ordinance or the zoning districts map shall be considered by the Township within a one-year period following a denial of such request, except that a new application shall be allowed if, in the opinion of the Township Board, there is new evidence or a sufficient change of circumstances to warrant additional consideration of the proposal by the Township.

12.6 Appeals

(a) Authority to Hear and Decide Appeals

The board of appeals and adjustments shall have the authority to hear and decide appeals of property owners and land users aggrieved by any order, requirement, decision or determination made by the Township Board. The decisions of the Township Board and the board of appeals and adjustments are final. Recommendations of the planning commission are not final decisions, and are not appealable to the board of appeals and adjustments.

(b) Initiation of Appeal.

An appeal may be initiated by any person aggrieved or by any order, requirement, decision or determination made by the Township Board, by completing and submitting the township appeal form to the zoning administrator or township clerk. An appeal must be initiated within 30 days after receipt of notice of the decision by the Township Board. The notice of appeal shall state:

- (1) The particular order, requirement, decision or determination from which the appeal is taken.
- (2) The name and address of the appellant.
- (3) The grounds for the appeal.
- (4) The relief requested by the appellant.
- (5) All necessary state and federal permits.
- (6) The variance request and a statement outlining the unique or particular situation or peculiar hardship involved in creating the need for a variance.

(c) Hearing of Appeal.

The board of appeals and adjustments shall determine a reasonable time for the hearing of the appeal and give due notice to the appellant, the zoning administrator and to the public. The board of appeals and adjustments shall decide the same within sixty (60) days after the date of filing the appeal. An appeal stays all orders, requirements, decisions or determinations involving the appellant until the appeal is decided by the board of appeals and adjustments. The board of appeals and adjustments may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and to that end shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit. The reasons for the board of appeals and adjustment's decision shall be stated in writing.

(d) Appeal to District Court

Final decisions of the board of appeals and adjustments or the township board may be appealed by the aggrieved person to the District Court within Goodhue County within 30 days after such final decision is made.

12.7 Fees

(a) Establishment of Fees.

The township board shall establish by resolution a schedule of fees to be charged and assessed by the township for applications for permits, appeals, amendments, variances and other land use matters to be considered by the Township Board.

(b) Application Fees.

Applicants for permits, appeals, amendments, variances and other land use matters shall be required to pay an application fee when submitting an application under this Ordinance. Application fees are intended to defray the administrative costs of processing requests. Application fees submitted as part of a complete application are not refundable, regardless of whether the application is approved, denied, or withdrawn.

(c) Escrow.

In order to defray the additional costs Florence Township may incur to process a request made under this Ordinance, applicants may also be required to reimburse the Township for all consulting and survey costs it incurs related to the particular request. Consulting and survey costs include, without limitation, all attorney, planner, and engineering fees incurred related to the request. An applicant may be required to escrow cash with the Township in the amount determined by the Township Board from which the Township will be reimburse for the consulting costs incurred. The applicant remains responsible for all such costs and shall promptly escrow additional funds if the Township Board determines the existing escrowed amount will not be sufficient to fully reimburse the Township for costs. An applicant's failure to promptly provide additional funds or to otherwise fully reimburse the Township for consulting costs shall be a justifiable basis for delaying the processing of or denying a request.

(d) Reimbursement in Full Required.

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

SECTION 13: ENVIRONMENTAL REVIEW

13.1 Purpose.

The purpose of environmental review is to enable the Township Board and residents to determine whether certain proposed projects and developments have the potential for significant environmental effects that should be studied and determined under the special procedures of the Minnesota Environmental Review Program.

13.2 General Provisions

(a) No proposed project or development, the land use of which is regulated by this Ordinance, shall be approved for issuance of a permit prior to a determination by the Township Board of the necessity for completion of an Environmental Assessment Worksheet (EAW) or Environmental Impact Statement (EIS). Procedures for engaging in environmental review are contained in the rules of the Minnesota Environmental Quality Board (EQB) authorized by Minnesota Statute 116D.04 and 116D.04S and specified in Minnesota Rules Parts 4410.0200 to 4410.7800.

(b) The Township Board may require discretionary environmental review of a proposed project or development, even if the scale, nature or size of such proposed project or development does not come within the thresholds of mandatory environmental review described in Minnesota Rules Parts 4410.0200 to 4410.7800.

(c) Environmental reviews (EAW and EIS) shall be conducted as early as practical in the processing of a development project. Time delays in the normal permit process cause by the filing and review of the EAW or EIS shall not be considered part of the permit approval time requirements set forth within this Ordinance. Such delays shall be considered as additional required time for each required permit. The permit process for the proposed project shall be continued from the point it was interrupted by the EAW/EIS process. No decision on granting a permit or other approval required to commence the project shall be issued until the EAW/EIS process is completed.

(d) The Township Board shall refuse to approve a proposed project or development, and refuse to issue an interim or conditional permit for such proposed project or development, if the Township Board determines that such proposed project or development has the real potential for significant adverse environmental effects that cannot be realistically mitigated.

(e) Any measures for mitigating significant adverse environmental effects that are determined to be feasible by the Township Board shall be incorporated as conditions for approval of conditional use permits, interim use permits, or variances, under this Ordinance.

SECTION 14: SIGNS

Section 14. SIGN REGULATION (amended 05/18/15)

Subd. 1 Purpose Provision

The purpose of this Regulation is to promote and protect the aesthetics and safety interests of the Township. In accordance with the goals and values of the Florence Township Comprehensive Plan, it is the intent of this Regulation to provide for the orderly and harmonious display of all signs within the Township; to aid in the identification of properties and enterprises for the convenience of the public; to avoid the erection of display which detract from the properties, the historic character, and the natural beauty of the landscape; to provide for the safety of the public by limiting distractions, hazards, and obstructions; to minimize clutter; and encourage a positive visual image of the Township for residents and nonresidents alike.

Subd. 2 Sign Description

Sign- Any device, structure, fixture, or placard using graphic symbols, and /or written copy for the primary purpose to identify, provide directions, or advertise an establishment, product, goods, or services. This includes temporary signage (30 days or less) and /or permanent signs (31 days or more).

Billboard – Any sign for any purpose, regardless of ownership or location, that is larger than one hundred twenty-eight (128) square feet in area and/or higher than twenty-five (25) feet in height.

Premises- A parcel of land, a residence or a place of business.

Subd.3 Definitions Legal Non-Conforming Signs:

Any sign legally existing at the time of the passage of this Regulation that does not conform to the provisions of this Ordinance shall be considered a legal non-conforming sign and may have continued use through repair, replacement, restoration, maintenance or improvement, but not including expansion. “Expansion” shall be defined as any structural alteration, change or addition that is made to the original sign. Any legal non-conforming sign damaged by vandalism, fire, wind, or similar peril to the extent of greater than fifty (50) percent of its market value or its replacement cost loses its status as a legal non-conforming sign, and must meet all zoning requirements in its restoration, or be removed entirely.

Size and Number of Signs Per Premises: Signage on a premises shall not exceed a combined maximum area of four hundred (400) square feet with no single sign to exceed one hundred twenty-eight (128) square feet.

Maximum Height of Signs: No part of a sign (including the structural support, decorative embellishment or other attachments) shall exceed twenty-five (25) feet in height – the vertical distance measured from the average ground grade below the sign to the highest point of the sign. No building-mounted signs shall extend above the roof line of the building.

Property Line Restrictions: All free standing signs shall be set back twenty-five (25) feet from the property line. All free standing signs shall be set back at least one hundred (100) feet from historic structures and landmarks for all free standing signs.

All signage in the historic district is also subject to the restrictions of the Heritage Commission.

Signage can only advertise for the business located on the premises. Regulatory signs such as No Parking, Fires Service etc., are not subject to this ordinance.

Temporary signs must be removed within three days after temporary advertised business is conducted, completed, and/ or no longer available.

Election signs will follow all county and state rules for display and removal.

Billboards: Billboards are prohibited within the Township

Sub. 4 ILLUMINATED SIGNS, MOTION SIGNS

Illuminated Signs, Motion Signs: Illuminated signs shall be allowed. If the sign is illuminated, and the source of light is external to the sign, the source of light shall be downward and shall be so directed as to not shine on any part of a residence or into a residential area or roadway or public highway. Devices giving off an intermitting, rotating beam or multi-vision message of light, which are LED, Digital or have moving parts or emit sound are prohibited.

Subd. 5 MAINTENANCE REPAIR AND REMOVAL

Maintenance and Repair: All sign locations shall be kept free from unsightly plant growth, debris or rubbish. All signs shall be properly maintained – exposed surfaces shall be clean and painted if required to have a protective cover. Defective parts of a sign shall be repaired or replaced. For safety reasons, all signs need to be structurally sound and if illuminated need to be electrically approved.

Notification of the need for repair, maintenance or removal will served upon the owner by the Town Board by U.S. first class mail and if not brought into compliance by the owner of the Premises within 30 days of the postmark date of the notice, the sign will be removed at the owner's expense.

Subd. 6 PERMITTING, REVIEW AND APPROVAL

Review of Sign: A new permanent sign (31 days or more) requires a permit. Refer to fee schedule on the Florence Township website. The owner of that sign shall present a plan in sufficient detail of the finished appearance and size of the proposed sign to the Township Planning commission for review, which will forward its recommendation to the Township Board for approval.

Variances to this ordinance are subject to the review and approval of the Florence Township Planning Commission and Board of Supervisors.

SECTION 15: ENFORCEMENT AND PENALTIES

15.1 Enforcement

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

15.2 Penalties.

(a) Prosecution.

The Township Board may enforce the Ordinance by criminal prosecution, civil remedy, or both remedies. Utilization of a civil remedy shall not prevent a criminal prosecution for the same violation. Florence Township may seek injunctive relief, including to require the restoration of the property to its original condition prior to the violation or to a condition that complies with this Ordinance.

(b) General Offense.

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

(c) Costs of Enforcement.

The cost of prosecution may be added to any fines or other penalties imposed as provided in Minnesota Statutes, section 366.01, subdivision 10. The Township may also collect such other reasonable costs incurred to enforce this Ordinance by certifying the amount to the County Auditor as a service charge pursuant to Minnesota Statutes, section 366.012 for collection together with the property taxes

levied against any real property the person or entity subject to the enforcement action owns in the Township. The Township will provide the property owner with written notice of intent to certify the amount on or before September 15. The amounts so certified to Goodhue County shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes.

(d) After the Fact Applications.

Any application for a permit or variance required under this Ordinance that is submitted to the Township after the use was initiated or the work has commenced shall be required to pay an after-the-fact application fee, which is a multiple of the permit or variance fee as indicated in Florence Township's current fee schedule.

AMENDMENT HISTORY:

Amended to include Sign Ordinance 05/18/15