

# GLYNDON TOWNSHIP ZONING ORDINANCE

Dated: 3/14/79

## 010

### TITLE

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

## 020

### STATEMENT OF PURPOSES AND INTENT

This Ordinance is enacted for the purpose of promoting the health, safety, order, convenience and general welfare of the residents of the town by regulating the use of land to protect and preserve lands identified for long-term agricultural use, to promote well-staged residential development and to avoid environmental pollution.

It is the intent of this Ordinance to identify and classify certain lands within the boundaries of Glyndon Township, Minnesota, as an Agricultural Preservation District and to identify and classify certain lands as a Commercial District.

## 030

### DEFINITIONS

The following words and terms, whenever they occur in this Ordinance, are defined as follows:

Building - Any structure having a roof which may provide shelter or enclosure of person, animals, chattels or property of any kind; when said structure is divided by party walls without openings, each portion of such structure so separate shall be deemed a separate building.

Day Care Facilities - Any facility where care is provided for more children than those of one family at a place other than their home for periods of less than 24 hours per day.

District - A district is a portion of the corporate area of the town within which certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of this Ordinance.

Driveway - A private road or path for vehicle access to a public road wholly located on the parcel which is afforded access.

Dwelling, Farm - A single family dwelling located on a farm which is used or intended for use by the farm's owner, or a descendant of the farm owner and such descendant's family, or a person employed thereon and such person's family.

Dwelling, Non-Farm - A single family dwelling located on a farm otherwise which is not a farm dwelling.

Dwelling, Transient Agricultural Labor - A free-standing mobile or permanent structure used or intended for habitation by transient agricultural labor.

Essential Services - Underground or overhead gas, electrical steam, water, television, telephone, sanitary or storm sewer distribution systems, including poles, wires, pipes, conduits, cables, and accessory equipment in conjunction therewith, except buildings as are required for the protection of the public health, safety and general welfare.

Family - An individual, or two or more persons related by blood, marriage or adoption, living together, or a group of not more than four persons who need not be related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit, exclusive of usual servants.

Farm - Real property used for commercial agriculture or horticulture comprising at least 35 contiguous acres and which may contain other contiguous or noncontiguous acreage, all of which is owned, rented and operated by a single family, family corporation, individual, corporation or partnership.

Farm Building - Any building or accessory structure other than a farm or non-farm dwelling which is used in a farming operation, including but not limited to, a barn, granary, silo, farm implement storage building or milk house.

Garage, Private - An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger or recreational vehicles of the family or families resident upon the premises.

Kennel - Any lot or premises where three or more dogs are boarded for compensation, or where dogs are bred on a commercial scale.

Lot - A parcel of land, subdivided or otherwise, capable of legal description, and having a principal frontage along a public road.

Lot of Record - Any lot which is one unit of a plat heretofore duly approved and filed, or one unit of an Auditor's Subdivision or a Registered Land Survey or described by metes and bounds in a conveyance that has been recorded in the office of the County Recorder or Registrar of Title of Clay County, Minnesota, prior to the effective date of this Ordinance.

Lot Width - The width of a lot along a line parallel to the frontage thereof and lying at a distance therefrom equal to the required front yard setback on such lot.

Maintenance and Minor Repairs - Includes reroofing, residing new or repair of windows, doors, floors and eavetroughs, repainting and stuccoing of exterior, interior redecorating, foundation or basement repair, new heating, air-conditioning and plumbing equipment or repair of present equipment; each of which may be done in total, or in part, except the structure shall not be enlarged or extended in any way unless a zoning certificate is obtained.

Motel, Motor Hotel - An establishment consisting of a group of attached or detached living or sleeping accommodations with bathroom, located on a single zoning lot and designed for use by transient automobile tourists.

Private Club or Lodge - A nonprofit association of persons who are bona fide members paying annual dues, which owns, hires, or leases the building or portion thereof, with the use of such premises being restricted to members and their guests. It shall be permissible to serve meals and food on such premises, provided adequate facilities are available.

Quarter Quarter Section - An approximately 40 acre parcel of land constituting the northeast, northwest, southwest or southeast quarter or a quarter section in the United States Government system of land survey.

Retail - The sale of items in small quantities directly to the consumer.

Road - A public thoroughfare 20 feet or more in width supporting access by pedestrians and motor vehicles to abutting properties including without limitation, streets, highways, freeways, parkways,

thoroughfares, roads, avenues, boulevards, lanes or places, however described; however, not including privately-owned driveways and access routes.

Salvage Yard - A place where waste, discarded or salvaged materials are brought, sold, exchanged, baled, packed, disassembled or handled; including auto wrecking yards, house wrecking yards, used material yards; but not including pawn shops, antique shops, purchase or storage of used furniture and household equipment, or the placing of used cars in operable condition.

Setback - The minimum horizontal distance between a structure and the nearest property line or highway easement line.

Structural Alteration - Any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

Structure - Anything constructed, the use of which requires permanent location on the ground or is attached to something having a permanent location on the ground.

Township Board - Glyndon Township Board of Supervisors, also referred to herein as the Board or Town Board.

Transient Agricultural Labor - Persons employed in farming operations on the premises which housed or other lands owned by the owner of the premises, provided that said persons may be employed a maximum of four weeks on lands not owned by said owner.

Use - Any purpose for which a building, structure, or tract of land may be designed, arranged, intended, maintained, or occupied.

Use, Accessory - A use or a structure subordinated to the principal use of the buildings on the same lot and serving a purpose customarily incidental thereto.

Use, Conditional - Any building, structure or use which would not generally be compatible without meeting conditions throughout the zoning district but which, if such conditions are met can be compatible with the zoning district and would promote the health, safety, or general welfare.

Use, Non-conforming - A use of land, building or structures lawfully existing at the time of adoption of this Ordinance which does not comply with all the regulations of this Ordinance of any use of land, building or structure lawfully existing prior to the adoption of an amendment which would not comply with all of the regulations of this Ordinance.



Use, Permitted - Any building, structure or use which complies with the applicable regulations of this Ordinance governing Permitted Uses in the Zoning District in which such buildings, structure or use is located.

Veterinary Clinic - Those uses concerned with the professional diagnosis, treatment, and care of animals, including animal or pet hospitals.

Yard, Front - A yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to depth required in the setback regulations for the Zoning District in which such lot is located.

Yard, Rear - The portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line and extending for the full width of the lot.

Yard, Side - The yard extending along the side lot line between the front and rear yards to a depth or width required by setback regulations for the Zoning District in which such lot is located.

Zoning Amendment - A change authorized by the governing body either in the allowed use within a district or in the boundaries of a district.

Zoning Certificate - A certificate issued by the Building Commissioner certifying compliance with the applicable provisions of this Ordinance, including but not limited to, building permits, conditional use permits and variance permits.

Zoning District (Zone) - An area or areas within the limits of the township for which the regulations and requirements governing use are uniform.

## 040

### GENERAL PROVISIONS

#### 041 Application of this Ordinance

1. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals, convenience, order prosperity and welfare.

2. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statutes, resolution, or regulation of any kind, the regulations which are more restrictive shall prevail.

3. Except as specifically provided in this Ordinance, no structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with this Ordinance.

#### 042 Separability

It is hereby declared to be the intention of the Town Board that the several provisions of this Ordinance are separable in accordance with the following:

1. If any court of competent jurisdiction shall adjudge any provisions of this Ordinance to be invalid, such judgment shall not affect any other provision of this Ordinance not specifically included in said judgment.

2. 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 other property, buildings or structures.

#### 043 Non-Conforming Uses and Structures

Any structure or use existing upon the effective date of the adoption of this Ordinance and which does not conform to the provisions of the Ordinance may be continued for a certain period of time subject to the following conditions:

(01) No such use shall be expanded or enlarged except in conformity with the provisions of this Ordinance.

(02) If a non-conforming use is discontinued (including destruction to an extent not exceeding 50% of its fair market value) for a period of one year, further use of the structures or property shall conform to this Ordinance.

(03) If no structural alterations are made, a non-conforming use of a structure or of a structure and land, may as a conditional use be changed to another non-conforming use provided that the Township Board either by general rule or by making findings in the specific case, shall find that the proposed use is no less inappropriate to the district than the existing non-conformity use. In permitting such change, the Board may require appropriate conditions and safeguards in accord with the provisions of this Ordinance. Even though a change of use may be so permitted, such use shall remain a non-conforming use and all provisions of this Ordinance applicable to non-conforming uses shall continue to apply to said changed non-conforming use.

(04) If a non-conforming structure is destroyed by any cause to an extent exceeding 50% of its fair market value as indicated by the records of the County Assessor, a future structure on the site shall conform to this Ordinance.

(05) Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use. On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 10% of the current replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased. If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to a lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulation of the district in which it is located.

(06) No such non-conforming use shall be enlarged or increased nor extended to occupy a greater area or land than was occupied at the effective date of adoption or amendment of this Ordinance. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such non-conforming use of land.

050

#### CLASSIFICATION OF ZONING DISTRICTS

##### 051 Zoning Districts

For the purposes of this Ordinance, the Township of Glyndon is hereby divided into Zoning Districts which are hereby designated as follows:

1. AGRICULTURAL PRESERVATION DISTRICT.
2. COMMERCIAL DISTRICT.

## 052 District Boundaries

### 1. Location of Districts

The locations and boundaries of the Agricultural Preservation District and of the Commercial District established by this Ordinance are set forth on the zoning map of the Township and said map is hereby made a part of this Ordinance. Said map consists of a sheet or sheets, and all notations, references and data shown thereon are hereby incorporated by reference into this Ordinance and shall be made as much a part of it as if it were fully described herein.

### 2. Location of Boundaries

Where uncertainty exists as to the location of the boundaries of the Agricultural Preservation District or the Commercial District, the following rules shall apply:

- (01) Boundaries indicated as approximately following the center lines of roads, streets or highways shall be construed to follow such lines.
- (02) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (03) Boundaries indicated as following railroad lines shall be construed to follow railroad right-of-way lines.
- (04) Boundaries indicated as approximately following section, half section and quarter section lines shall be construed as following said lines.
- (05) Boundaries indicated as following shorelines of bodies of water shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, or canals or other bodies of water shall be construed to follow such center lines.
- (06) Boundaries indicated as parallel to or extensions of features indicated in Subsections (01) through (05) shall be so construed. Distance not specifically indicated on the official zoning map shall be determined by the scale on the map.

## 053 Official Zoning Map

1. The official zoning map should be identified by the signature of the Chairman of the Township Board, attested by the



Township Clerk, and together with its date of adoption. Copies of the official zoning shall be filed in the Clay County Register of Deeds and Auditor's offices and shall remain without change as originally adopted by the Township Board to be used only for reference purposes when there is a need to determine the original zoning.

2. One or more sets of the zoning map entitled "Official Agricultural Preservation District Zoning Map" shall be available for public reference in the County Auditor's and County Planning Director's Office. Each map shall be identified by the signature of the Chairman of the Township Board and attested by the Township Clerk.

3. If, in accordance with the provisions of this Ordinance, changes are made in a district's boundaries or other matter portrayed on the official zoning map such changes shall be made on the official zoning promptly after the amendment has been approved by the Township Board.

## 060

### AGRICULTURAL PRESERVATION DISTRICT

#### 061 Intent

This district is intended to contain those areas of the Township where it is necessary and desirable, because of the nature of the soils, economic importance of agriculture, availability of water, and/or highly productive agricultural capability to preserve, promote, maintain and enhance the use of the land for agricultural purposes and to protect such land from encroachment by non-agricultural uses, structures or activities.

#### 062 Permitted Uses and Structures

Those uses shall be permitted which are permitted by right or by the Clay County Planning Commission in accordance with the Clay County Zoning Ordinance #2 except as hereinafter restricted as to structures which are permitted.

The following structures shall be permitted by right:

1. Farm buildings;
2. Farm dwellings; and
3. One non-farm dwelling per each quarter quarter section not already containing a farm or nonfarm dwelling provided:

(01) The dwelling unit shall be located entirely within one quarter quarter section on a separately owned parcel which shall be at least two acres in size.

(02) The parcel in which the dwelling unit is located must have at least 200 feet of frontage along the road which was in use before the effective date of this Ordinance.

#### 063. Permitted Accessory Structures

The following accessory structures shall also be permitted by right:

1. Structures which are customarily accessory and clearly incidental and subordinate to agricultural and residential uses and structures, including:

(01) Private garages;

(02) Playhouses and swimming pools (providing that the pools are fenced to prohibit public harm) and storage buildings appurtenant to single-family dwellings;

(03) Road side stands for sale of agricultural produce grown on the site;

(04) Landscaping items; and

(05) Transient agricultural labor dwellings, provided they are in compliance with county, state and federal laws and regulations.

#### 064 Conditional Uses and Structures

The following conditional uses and structures may be approved by the Township Board in the Agricultural Preservation District provided that all other provisions and requirements of this Zoning Ordinance are fulfilled:

1. Churches, schools, local government buildings and facilities and government owned facilities for the maintenance of roads and highways.

2. Agricultural service establishments primarily engaged in performing agricultural animal husbandry or horticultural services on a fee or contract basis including corn shelling; hay baling and thrashing; sorting, grading and packing fruits and vegetables for the grower; agricultural produce milling and processing; horticultural services; crop dusting; fruit picking; grain cleaning; land grading harvesting and plowing; farm equipment sales, service and repair, veterinary services; boarding and training of horses; commercial hunting and trapping; the operation of game reservations; road side stands for the sale of agricultural produce not grown on the site.

3. Essential services and service structures.

4. A parcel of wooded land not presently used for agricultural crop production, and which was a unique beauty which includes healthy, mature trees of the entire acreage, may be used for building sites upon the issuance of a Conditional Use Permit. The following minimum standards must be met prior to making application for a Conditional Use Permit for this use:

(01) That said trees are confirmed to be of a desirable species and to be healthy and mature.

(02) That land slopes are less than 12% for an area large enough to accommodate the buildings and on-site sewer systems.

(03) That soils will allow for the construction of an on-site sewer system, the same being confirmed by acceptable percolation and boring tests.

(04) That there shall be no more than three building sites proposed to be created, regardless of the total size of the wooded parcel, and that no site shall be less than two acres.

(05) That such proposed use would not conflict with the officially adopted Park and Open Space Plan for Clay County.

065 Standards for Granting Conditional Use Permits

No Conditional Use Permit shall be issued by the Township Board unless following review and written findings it determines that the proposed use satisfies the following conditions:

1. Non-farm structures shall be sited on a separately surveyed and described parcel.

2. The use shall not be one to which the noise, odor, dust, or chemical residues of commercial agriculture or horticulture might result in creation or establishment of a nuisance or trespass.

3. All agricultural service establishments shall be located at least 300 feet from any driveway affecting access to a farm dwelling or field and at least 300 feet from any single-family dwelling.

4. An agricultural service establishment shall be incidental and necessary to the conduct of agricultural within the district.

5. Any outdoor storage areas must be effectively screened (as provided in Section 079).

## 066 Prohibited Uses and Structures

All structures and uses which are not specifically permitted by right or by conditional use permit shall be prohibited in the Agricultural Preservation District.

## 067 Exterior Storage and Refuse

There shall be no exterior storage of dismantled, discarded, or unused business, household or farm implements, vehicles, equipment, furnishings, materials or supplies. All debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes.

## 068 Screening

Exterior storage areas shall be screened in compliance with Section 079 of this Ordinance.

## 069 Minimum Lot Sizes, Yard Requirements and Spacing Requirements:

1. Lots sizes: Two acres, of which 20,000 square feet shall not be subject to flooding. The minimum lot width at the front yard setback line shall be 200 feet.

### 2. Yard requirements:

(01) The front yard requirement shall be applied from the nearest perimeter line of the right-of-way width stated below as related to the functional classification indicated in the Thoroughfare Plan of the Comprehensive Development Plan for Clay County, as adopted:

<u>Road Type</u>	<u>Setback</u>
Principal Arterial	200 feet
Minor Arterial	150 feet
Collector	100 feet
Local Road	50 feet

(02) The rear yard shall be at least 25 feet, except non-attached accessory structures may be eight feet from the lot line.

(03) The side yard shall be at least eight feet.

3. Structure Spacing: Farm and non-farm buildings shall be separated at least 200 feet.

4. Driveway Separation: Provisions for driveway separation for those uses permitted pursuant to the provisions of 064 shall be in accordance with the following schedule:



- (01) Local Road: 100 feet
- (02) Collector Road: 300 feet
- (03) Principal arterial: 500 feet
- (04) Minimum distance from intersection of two or more of the above: 100 feet.

## 070

### COMMERCIAL DISTRICT

#### 071 Intent

This district is intended to provide compact centers for commercial sales and services offering a wide range of goods and services which are not incompatible with the uses permitted in the Agricultural Preservation District, or whose incompatible features can be eliminated by design, screening, or other appropriate devices.

#### 072 Permitted Uses and Structures

Within the Commercial District, no building or land shall be used except for the following uses:

1. Medical, dental, legal, and similar professional offices.
2. Restaurants, cafes, and coffee shops.
3. Commercial agricultural, except poultry and livestock feedlots.
4. Drive-in eating establishments.
5. Automobile fuel and service stations.
6. Bowling alleys, pool halls or billiard parlors, dance halls, bars, cocktail lounges, and night clubs.
7. Motels or motor hotels.
8. Landscape, nursery, or garden stores.
9. Commercial greenhouses.
10. Private clubs or lodges.
11. Agricultural implement dealerships.

12. Service and repair stations (excluding salvage yards), provided that there is no outdoor storage of wrecked or junked vehicles.

13. General retail establishments.

14. Golf courses, tees or driving ranges, including miniature golf courses.

15. Kennels.

16. Cultural centers, such as museums, art galleries or community learning resource centers.

17. Agricultural service establishments primarily engaged in performing agricultural animal husbandry or horticultural services on a fee or contract basis including corn shelling; hay baling and thrashing; sorting, grading and packing fruits and vegetables for the grower; agricultural produce milling and processing; horticultural services; crop dusting; fruit picking; grain cleaning; land grading; harvesting and plowing; farm equipment sales, service and repair; veterinary services; boarding and training of horses; commercial hunting and trapping; the operation of game reservations; road side stands for the sale of agricultural produce not grown on the site.

18. Essential service and service structures.

19. Local government buildings and facilities and government owned facilities for the maintenance of roads and highways.

20. Banks and savings and loans.

21. Veterinary clinics.

22. Day care facilities.

### 073 Conditional Uses

Within the Commercial District, the following uses may be allowed, but only upon the securing of a Conditional Use Permit:

1. Radio and television studio and towers.

2. Camping facilities.

3. Churches and schools.

4. Retirement, nursing, rest or convalescent homes.

5. Parks and playgrounds, as long as no overnight camping is allowed.

6. Other uses not listed but similar to the permitted uses above and consistent with the stated purpose of this district.

#### 074 Permitted Accessory Structures and Uses

1. Subordinate uses which are clearly and customarily accessory to the permitted use will be allowed.

2. Structures which are customarily accessory and clearly incidental and subordinate to commercial uses and structures will be allowed. Such accessory structures must be so designated and constructed as to be architecturally harmonious with the principal structure.

3. Setback requirements established for buildings in the Commercial District shall apply to accessory buildings.

#### 075 Standards for Granting Conditional Use Permits

No Conditional Use Permit shall be issued by the Township Board unless following review and written findings it determines that the proposed use satisfies the following conditions:

1. It meets the minimum standards and requirements of the Commercial District.

2. The use will not cause traffic hazard or congestion.

3. Existing commercial uses will not be adversely affected because of curtailment of customer trade brought about by intrusion of non-shipping traffic or general unsightliness.

4. The use in the opinion of the Township Board is reasonably related to the overall needs of the Town and to existing and projected land use.

5. The use is consistent with the purposes of the zoning ordinance and with the purposes of the Commercial District.

#### 076 Prohibited Uses

1. Notwithstanding any other provisions of this Ordinance, no use will be permitted which will adversely affect adjacent Agricultural Preservation District-zoned land because of excessive traffic generation, noise, glare, odor, dust, chemical residues; or other nuisance characteristics.

2. All uses and structures not specifically permitted shall be prohibited.

3. Drive-in movies shall be prohibited.

077 Lot Sizes, Lot Coverage, Yard Requirements and Spacing Requirements

1. Lot Sizes - The required minimum total lot area for permitted and conditional uses shall be the area necessary to meet stipulated space requirements set forth for the particular use in the Clay County Zoning Ordinance.

2. Lot Coverage - Not more than 30% of the lot area shall be occupied by buildings.

3. Yard Requirements -

(01) Lot width - Every lot shall have a width of not less than 100 feet abutting a public right of way.

(02) Front Yard - There shall be a front yard setback of not less than 50 feet. Where a lot is located at the intersection of two or more roads or highways, there shall be front yard setback on each road or highway side of the lot.

(03) Rear Yard - There shall be a rear yard having a depth of not less than 40 feet.

(04) Side Yard - There shall be a side yard having a width of not less than 24 feet from each side of any building to the side yard lot line. No building shall be located within 30 feet of any side lot line abutting a lot located in the Agricultural Preservation District.

4. Driveway Separation - The provisions for driveway separation shall be in accordance with the following schedule:

(01) Local Road: 100 feet

(02) Collector Road: 300 feet

(03) Principal arterial: 500 feet

(04) Intersections: 100 feet

078 Access to Public Right of Way

No lot in the Commercial District may have a building structure upon it unless it has access to a public right of way, direct access from the front yard of the lot to a principal arterial shall not be permitted.



## 079 Screening

1. All exterior storage areas must be effectively screened. Such screening must be at least equal in height to the height of the stored material and in no case shall it be less than seven feet in height nor more than ten feet in height.

2. Screening must be sight-obscuring and may include a fence or plantings of sufficient density and size to provide effective year-round screening, provided such plantings will be sight-obscuring within 24 months after planting. Screening shall be so designed and constructed as to be architecturally harmonious with the principal structure.

## 0710 Refuse

All waste material, debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes.

## 080

### VIOLATIONS AND REMEDIES

In case any building or structure is erected, constructed, reconstructed, altered or repaired (other than maintenance and minor repair), converted, or maintained, or any building, structure, or land is used in violation of the provisions of this Ordinance, the Township Board, in addition to other remedies under state statutes, may institute an action to enjoin, or any other appropriate action or proceeding to prevent such erection, construction, reconstruction, alteration, repair, conversation, maintenance, maintenance or use, or to order removal of any building or structure not complying with the provisions of this Ordinance. All violations of this Ordinance by the owner or anyone using the property constitute a continuing public nuisance.

## 081

### ADMINISTRATION AND ENFORCEMENT

## 091 Enforcing Officer

The Town Board shall instruct the Township Building Commissioner to enforce this Ordinance and perform the following duties:

1. Issue Zoning Certificates and maintain records thereof.

2. Conduct inspections of buildings and use of land to determine compliance with the terms of this Ordinance.

3. Serve as an ex-officio nonvoting member of the Town Board.

4. Receive, file and forward all applications for appeals, variances, amendments, special uses or other matters to the designated official bodies.

5. Maintain permanent and current records of this Ordinance, including, but not limited to, all maps, amendments, special uses, variances, appeals and applications therefor.

6. Receive, file and forward all applications for permits, appeals, variances, conditional uses or other matters to the designated official bodies.

#### 092 Powers of Town Board

The Town Board shall have jurisdiction in all matters permitted by law and shall have the specific and general powers provided in this Ordinance, among others, including those as follows:

1. Make all final determinations of questions relating to the interpretation of this Ordinance. The Town Board shall interpret the Ordinance in such a way as to carry out the intent and purpose of this Ordinance.

2. Have the power to allow the temporary use of a building or premises in any district for a purpose or use that does not conform to the conditions prescribed by the Ordinance, provided that such use be of a truly temporary nature and does not involve the erection of substantial buildings. Such permit shall be granted in the form of a temporary and revocable permit for not more than a 12-month period, subject to such conditions as will safeguard the public health, safety, convenience and general welfare.

3. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, grant or refusal made by the Building Commissioner in the enforcement of the provisions of the regulations.

4. To authorize, on appeal and after public hearing, in specific cases such variance from the terms of the Ordinance as will not be contrary to the public interest, where, due to special conditions, a literal enforcement of the provisions will result in unnecessary hardship. As used in this Ordinance, a variance is authorized only for height, area, and size of structure or size of yards and pen spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance.

5. Consider, adopt or reject proposed zoning district or text amendments or repeal of this Ordinance.

6. Act upon requests for conditional uses, variances, or building permits.

7. Appoint a Building Commissioner who need not be a freeholder of the Township.

093 Procedure for Zoning Amendments, Administrative Review, Conditional or Temporary Uses, Variances

1. An application shall be filled out together with a fee established by the Town Board. This application shall be submitted to the Building Commissioner and shall include the following where appropriate:

(01) For a zoning map amendment the description of the proposed change plus a petition of at least 50% of the owners of the lands proposed for the change.

(02) For administrative reviews, variances or temporary uses all pertinent information under which the action is requested.

(03) For conditional uses:

a. An indication of the section of this Ordinance under which the conditional use is sought and stating the reasons for which it is required.

b. A plot plan showing:

i. Legal dimension of the tract to be used.

ii. Location of all structures and all existing and proposed improvements and their proposed uses.

iii. Building setback from all property lines.

iv. Location and type of planting, screening and walls.

c. A timing schedule indicating the anticipated starting and completion dates.

(04) The applicant shall supply proof of ownership of the property for which the rezoning is requested consisting of an Abstract of Title, Registered Property Abstract, or option to buy, certified currently, together with an unrecorded document whereby the petitioners acquire a legal or equitable ownership interest.

(05) The required form shall be accompanied by a licensed abstracter's certificate showing the record owners' addresses of all the property located within one-half mile of the property for which the Conditional Use Permit is requested.

2. A public hearing is held by the Town Board in accordance with Section 0910.

3. The Town Board shall take action on the application within 60 days after the public hearing. The Town Board may approve, deny, modify or impose conditions (including time limits) it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.

4. No application shall be considered by the Town Board within a six-month period following a denial of such request, except the Town Board may permit a new application, if in the opinion of the Town Board new evidence or a change of circumstances warrant it.

5. Any changes or alterations other than those authorized or required as conditions shall require an amendment therefor. All procedures shall apply as if a new permit were being issued.

#### 094 Conditional Uses

##### 1. Criteria for Granting Conditional Uses

(01) In granting a Conditional Use Permit, the Town Board shall consider the effect on the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands, existing and anticipated traffic conditions including parking facilities on adjacent streets and land, and the effect on agricultural usage and values of property and scenic views in the surrounding area, and the effect of the proposed use on the comprehensive plan.

(02) It shall make the following findings, among others, where applicable:

a. The use will not create an excessive burden on parks, schools, streets, water supply, sanitary sewers and storm sewers and other public facilities and utilities which serve or are proposed to serve the area.

b. The use will be sufficiently compatible or separated by distance or screening from



adjacent agriculturally zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to agricultural use of said land.

c. The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.

d. The use in the opinion of the Town Board is reasonably related to the overall needs of the Township and to the existing land use.

e. The use is consistent with the purpose of the zoning code and the purposes of the zoning district in which the applicant intends to locate the proposed use.

f. The use is not in conflict with the comprehensive plan, if any, of the County.

g. The use will not cause traffic hazard or congestion.

h. Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare or general unsightliness.

## 095 Temporary Uses

### 1. Criteria for Granting Temporary Uses

(01) Adjacent vacant land will not be developed during the existence of the use or will not be adversely affected by the proposed use.

(02) Adjacent developed land will not be adversely affected by the proposed use.

(03) There is adequate assurance, guaranteed by performance bond or letter of credit where deemed necessary by the Town Board, that the property will be left in suitable condition after the use is terminated.

(04) Promotional displays and activities such as kiddie rides, carnivals not otherwise prohibited by ordinances, street dances, concerts, live entertainment, and promotional and sidewalk sales for the purposes of promoting a use or uses regularly and lawfully in operation on the land may be permitted in open areas.

(05) Transient merchant sales are sales of goods such as art, crafts, cosmetics, personal apparel and household furnishings for not longer than three days in any one week. No Conditional Use Permit shall be required for said sales as long as the applicant proves to the Building Commissioner that he is properly licensed in accordance with federal, state and county requirements.

#### 096 Conditions Attachable to Conditional and Temporary Uses

##### 1. Conditions

In permitting a new conditional use, temporary use or the alteration of the same use or temporary use, the Town Board may impose, in addition to these standards and requirements expressly specified by this Ordinance, additional conditions which they consider necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

- (01) Increasing the required lot size or yard dimension.
- (02) Limiting the height, size or location of buildings.
- (03) Controlling the location and number of vehicle access points.
- (04) Increasing the street width.
- (05) Increasing the number of required off-street parking spaces.
- (06) Limiting the number, size, location or lighting of signs.
- (07) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- (08) Designating sites for open space.

#### 097 Variances

##### 1. Criteria for Granting Variances

A variance may be granted only in the event that all of the following circumstances exist:

(01) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owner of property since enactment of this Ordinance has had no control.

(02) That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

(03) That the special conditions or circumstances do not result from the actions of the applicant.

(04) The variance will not allow any use that is not permitted under the Ordinance for a property in the zone where the affected applicant's land is located.

#### 098 Zoning District Amendments

##### 1. Criteria for Granting Zoning District Amendments

(01) In granting a zoning district amendment, the Town Board shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands, existing and anticipated traffic conditions on adjacent streets and land, and the effect on agricultural usage and scenic views in the surrounding area.

(02) It shall make the following findings, among others, where applicable.

a. The rezoning will not create an excessive burden on parks, schools, streets, water supply, sanitary sewers and storm sewers and other public facilities and utilities which serve or are proposed to serve the area.

The rezoning in the opinion of the Town Board is reasonably related to the overall needs of the Township and to the existing land use.

- c. The rezoning is consistent with the purpose of the zoning code and the purposes of the zoning district in which he seeks classification.
- d. The rezoning is not in conflict with the comprehensive plans of the County.
- e. The rezoning will not cause traffic hazard or congestion.
- f. The rezoning will not either individually or cumulatively stimulate prematurely public investment in the facilities and utilities described in 094, 2, (01).

## 090 Zoning Certificate

### 1. Procedure

For the purpose of enforcing the Ordinance for construction other than maintenance and minor repair, prior to the start of construction; for the moving of any structure, change of the use of land or structure, or change of the means of property egress and ingress, a zoning certificate shall be required of all persons. No zoning certificate shall be issued by the Township Building Commissioner except in conformity with this Ordinance, unless he receives a written order from the Town Board in the form of a zoning amendment, administrative review, conditional or temporary use, or variance as provided by this Ordinance.

(01) Persons requesting a zoning certificate shall fill out an application available from the Building Commissioner or Town Clerk.

(02) Applications for zoning certificates shall be made to the Building Commissioner and, if requiring improvements to the land, shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon or used; the exact size and locations on the lot of buildings already existing, if any; the location and dimensions of the proposed building or alteration or use of the land, and the detailed location and size of all required off-street parking and loading areas. The application shall include such other information as may be required by the Building Commissioner.

(03) The Building Commissioner within 10 days must take action to either approve, reject or refer the zoning certificate request back to the Town Board for additional information or clarification.



(04) If the construction described in any zoning certificate has not begun within six months from the date of issuance thereof, said permit shall expire. If the construction described in any zoning certificate has not been substantially completed within one year of the date of issuance thereof, said certificate shall expire and be cancelled by the Building Commissioner, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled certificate shall not proceed unless and until a new certificate has been obtained.

(05). Zoning certificates issued on the basis of approved plans and applications, or as a conditional or temporary use, administrative review, or variance shall authorize only the use, arrangement and construction set forth in such approval plans and applications, and no other use, arrangement or construction. Any use, arrangement or construction at variance with that authorized or required shall be deemed a violation of this Ordinance.

(06) The holder of every zoning certificate shall notify the Building Commissioner immediately upon completion of the work authorized by such certificate for a final inspection.

2. Erecting, establishing, altering, enlarging, using, occupying, or maintaining any building, structure, improvement, or premises without first obtaining a zoning certificate constitutes a violation of this Ordinance giving rise to any and all legal and equitable remedies.

#### 0910 Public Hearings

1. For administrative reviews, temporary and conditional uses or variances, notice of the time, place and purpose of the hearing shall be published in the official newspaper of the Township at least 10 days prior to the day of the hearing. For zoning district changes or amendments 30 days' prior notice of the hearing shall be given. For zoning district changes, property owners within one-half mile of the property in question shall be notified, although failure of any property owner to receive such notification shall not invalidate the proceedings. Notification shall be by mail seven days before the hearing.

2. The petitioner or his representative shall appear before the Town Board in order to answer questions concerning the proposal.

3. The Town Board may continue the hearing at a later date.

4. If a time limit or periodic review is included as a condition for approval, notice of said hearing shall be in accordance with 0910,1. The owner of the land shall not be required to pay a fee for said review.

0911 Schedule of Fees, Charges, and Expenses

The Town Board shall establish a schedule of fees, charges, and expenses, and a collection procedure, for zoning certificates, variances, conditional uses, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Building Commissioner and Clerk as appropriate and may be altered or amended only by the Town Board.

No zoning certificate, conditional use, or variance shall be issued or granted unless or until such costs, charges, fees, or expenses have been paid in full, nor shall any action be taken on proceedings before the Planning Commission until charges and fees have been paid in full.

0100

EFFECTIVE DATE

This Ordinance shall be effective on the 14 day of MARCH, 1979.

