

ZONING ORDINANCE

An ordinance Establishing and Adopting Land Use, Building and Zoning Regulations and Restrictions Within the Township of Barry, Pine County, Minnesota

The Board of Supervisors of the Township of Barry ordains:

SECTION 1 PURPOSE

This ordinance is enacted pursuant to Minnesota Statutes Chapter 462 for the following purpose: to promote the health, safety, morals and general welfare throughout the Township of Barry by lessening congestion in public right-of-way, securing safety from fire, panic and other dangers, provide adequate light and air, facilitating the adequate provision of water, sewerage and other public requirements, conserving the values of property and provide for the appropriate use of land, and lessening congestion in roads, reducing the wastes of excessive amounts of roads. Any construction, structures, or land-use activity not allowed under the terms of this Ordinance shall be prohibited within the Township.

SECTION 2 CITATION

This ordinance shall be known and may be cited and referred to as the Barry Township Zoning Ordinance.

SECTION 3 DEFINITIONS

Unless specifically defined herein, words or phrases used in this ordinance shall have the meaning as they have in common usage and so as to give this ordinance its most reasonable application. All distances, unless otherwise specified, shall be measured horizontally.

Agricultural use: “Agricultural use” means the production of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, or bees and apiary products. “Agricultural use” also includes wetlands, pasture, forest land, wildlife land and other uses that depend on the inherent productivity of the land.

Building Site Permit: A “Building Site Permit” is a permit issued by the Town Board which, when properly filled out and submitted to the Township Zoning Officer for approval, and when approved, authorizes specific improvements to be made on that specific lot or parcel of real estate.

County: The “County” shall mean Pine County, Minnesota.

Farming: “Farming” means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or

other horticultural crops, grazing, the production of livestock, aquaculture, hydroponics, or the production of forest products.

Lot: A “Lot” as the term is used herein shall be one land unit under 40 acres and not less than the size specified in Section 8A.

Nonconformity: A “Nonconformity” including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this ordinance, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion. For purposes hereof, “Expansion” means any change or modification which permanently increases the footprint of a structure.

Township: the “Township” shall refer to Barry Township, Pine County Minnesota.

SECTION 4 INTERPRETATION

Unless otherwise provided, this ordinance shall be interpreted by the general rules of interpretation as provided by and for state law. Except as otherwise provided or required by context, the following specific rules of interpretation shall apply:

- A. Singular and plural.** Words in their singular form shall include the plural and words in their plural form shall include the singular.
- B. Tenses.** Words denoting the present tense shall also include the future tense.

SECTION 5 APPLICATIONS

This ordinance does not supersede nor replace the Pine County Shore Land Management Ordinance, Pine County Flood Plain Management Ordinance, Pine County Subdivision and Platting Ordinance and the Kettle River Wild and Scenic River Ordinances for Pine County. Existing residences and site situations not specifically addressed, which are not in conformance with the provisions of this ordinance, shall not be governed by this document.

SECTION 6 ZONE DISTRICTS

- A. Zone 1.** All land Other than Sections 18,19,30 of Barry Township is classified as Agricultural, Residential, Recreational.
- B. Zone 2.** All land in Sections 18,19,30 of Barry Township is classified as Commercial, Industrial, Residential.
- C. Zone 3.** Airport

SECTION 7 PERMITTED USES

- A. Zone 1.** Agricultural, Residential, Recreational. The following uses shall be permitted within the Agricultural, Residential, Recreational zone.

1. Agricultural uses; Agricultural Buildings.
2. Farming
3. Forest uses, forestry management, accessory structures associated with permitted uses.
4. Residential uses. Single-family dwellings and seasonal, non-permanent dwelling subject to the following conditions: (MS 462.357 subd7)

Each permanent or seasonal dwelling shall be located on a minimum of five (5) acres and contain at least two and a half (2.5) contiguous acres of buildable land. Before a "Building Site Permit" is issued, the Township will request verification that the parcel has been surveyed and subdivided under the Pine County Subdivision and Platting Ordinance or evidence that the parcel was created consistent with any county or township regulations at the time the parcel was created.

B. Zone 2. Commercial, Industrial, Residential. The following uses shall be permitted within the Commercial, Industrial, Residential zone.

1. Agricultural uses; Agricultural buildings.
2. Farming.
3. Forest uses, forestry management, accessory structures associated with permitted uses.
4. Residential uses, single-family dwellings and seasonal, non-permanent dwelling subject to the following conditions. (MS 462.357 subd7)
5. Commercial and Industrial uses such as manufacturing, construction, and repair businesses.

Each permanent or seasonal dwelling shall be located on a minimum of two and a half (2.5) acres and all must be buildable land. Before a "Building Site Permit" is issued, the Township will require verification and all documentation that the parcel has been surveyed and subdivided under Pine County Subdivision and Platting Ordinance or evidence that the parcel was created consistent with any County or Township regulation at the time the parcel was created.

C. Zone 3. Airport. The following uses shall be permitted within the Airport Zone.

1. All uses involved in normal airport operations such as airport management office, aircraft maintenance, aircraft storage, and airport grounds maintenance.
2. Farming

Each airport structure shall be located on a minimum of 54,450 Square foot lot. Only aviation uses are allowed in aircraft hangars. Storage of non aviation items is prohibited, such as cars ,boats, household items,and recreational vehicles. Residential living quarters are not allowed in airport structures.

D. Permits. A “Building Site Permit” shall not be issued by the Township until an individual on-site sewage system permit, when required, has been issued by the County.

SECTION 8 SPECIFICATIONS

A. All lots in **Zone 1** shall be a minimum of five (5) acres and contain at least two and a half (2.5) contiguous acres of buildable land and have a minimum of 66-foot frontage on any public road, cartway or private easement. All lots in **Zone 2** shall be a minimum of two and a half (2.5) acres and all must be buildable land and have a minimum of 66-foot frontage on any public road, cartway or private easement. All lots in **Zone 3** shall be a minimum of 54,450 Square feet and be accessed via airport property. Any new private easements must be approved, in advance and in writing, by the Town Board.

B. A “Building Site Permit” shall be obtained from the Township Zoning Officer for all homes, buildings and structures to be constructed within the Township. No sanitary sewers, cesspools, sanitation systems, septic tanks and water systems shall be installed until a valid Sewage Treatment Permit application has been approved by the Pine County Planning and Zoning Department. All buildings, homes, manufactured homes or structures shall be built at least 100 feet away from the center line of a public highway, road or cartway and 16.5 feet away from property lines.

C. When property lines are unclear the township may require a survey be performed to ensure proper setbacks to comply with with this ordinance before a “Building Site Permit” will be issued.

D. **Manufactured Home/Structure:** Any manufactured home moved into the Township to be used for housing shall comply with the requirements of the current Manufactured Housing Code. (MS. 327.31 to MS 327.36 MN Rule 1350.0300) This provision applies to manufactured homes used on a permanent or temporary basis, i.e. permanent homes, weekend cabins and hunting shacks.

E. **Movable or portable structures:** Movable or portable structures 250 square feet or less do not require a “Building Site Permit.” Structures in this category must meet the setback requirements of this ordinance.

F. **Conditional Uses:** Other than uses previously listed, the following examples shall require a Conditional Use Permit, as appropriate for the specific location, pursuant to the Ordinance.

1. Commercial excavation of materials
2. Adult and child care facilities
3. Churches and places of worship
4. Commercial greenhouses and nurseries
5. Farm implement sales and repairs
6. Motels and Bed and Breakfast type accommodations
7. Gasoline service stations
8. Motor sports events, motor sport club uses, including permanent and temporary ATV events, automobile or motorcycle facilities and events
9. Permanent or temporary recreation activities including “paint ball” type combat simulation uses
10. Restaurants
11. Communication towers and transmitter buildings
12. Public utilities
13. Industrial uses
14. Private air strips
15. The keeping of exotic, wild or otherwise regulated non-agricultural animal species
16. Government buildings
17. Camping facilities including RV parks, public or private tent campgrounds
18. Accessory structures to a conditional use permitted
19. Second dwelling located on the same parcel necessary for health care purposes, shall be subject to all other provisions of this Ordinance

20. Other uses as determined by the Barry Township Planning Committee and or Town Board to be of the same character as the conditional uses identified in this ordinance.

21. Solar Energy Systems.

G. Other Use Review Criteria: In reviewing an application for a conditional use permit, the Township will evaluate the effects of the proposed use using criteria including but not limited to the following:

1. The Maintenance of safe and healthful conditions as well as the general health, safety and welfare of the residents; and
2. The prevention and control of water pollution; and
3. The impact on existing topographic and drainage features and vegetative cover on the site; and
4. The location of the site with respect to existing or future access roads; and
5. The compatibility with uses on adjacent land; and
6. The compatibility with a desirable pattern of development in the area and in the Township; and
7. The adequacy of the proposed wastewater treatment system for the new use; and
8. The compliance with the Township's Comprehensive Plan and other Township Ordinances; and
9. The proposed use can be accommodated with existing public services and will not overburden the Town's service capacity; and
10. The traffic generated by the proposed use is within the capabilities of the roads serving the property; and
11. The effect of the proposed use on groundwater, surface water and air quality; and
12. Whether such use will tend to or actually depreciate the value of other properties in the area in which it is proposed.

13. Expiration of Conditional Use Permit by Non-Use. Whenever within one (1) year after granting a conditional use permit, the work as permitted by the permit shall not have been completed, or has been discontinued for more than one (1) year, such permit shall expire unless an extension of time has been granted by the Township Board. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original conditional use permit. There shall be no charge for the filing of such a petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the conditional use permit. Such a petition shall be presented to the Planning Commission for a recommendation

H. Nonconformities: If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building site permit has been applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. (MS. 462.357, subd. 1c)

I. Non-conforming lots: As of January 1, 2022, lots identified as non-conforming according to the Township zoning requirements shall be deemed buildable upon the landowner presenting proof to the town board, for its approval, of the following:

1. There are 2.5 contiguous acres buildable on the lot
2. Two septic system locations shall have been approved by the County.

If these requirements are not met, the applicant must go through the variance process..

SECTION 9 INTERIM USES

- A.** The following uses shall require an interim use permit.
1. Mining. In addition to other requirements, every interim use permit for mining will require a surety bond for decommissioning, and an annual update to the Town, in writing, regarding the status of the use.
 2. Any new business which can be ascertained to exist from the street or adjoining property, whether by signage, traffic, noise, lighting, or otherwise.

3. Other uses as determined by the Barry Township Planning Committee and or Town Board to be of the same character as the conditional uses identified in this ordinance.

B. To grant an interim use permit, the Town must find that the use otherwise complies with zoning regulations, the date or event that will terminate the use must be identified, the Town must find that granting of the use will not impose additional costs on the public, and the user must agree to any conditions the Town places on the use. A public hearing must be held before an interim use can be permitted. All interim use permits shall be recorded against the property to which they apply, at applicant expense.

SECTION 10 SUBDIVISION ORDINANCE

All subdivisions, per subdivided lot, must conform to the current Township zoning requirements including Zone 1's 5-acre minimum and Zone 2's 2.5-acre minimum, setbacks, frontage, buildable acres and County septic requirements. Applicants shall contact Pine County for all subdivision requests.

SECTION 11

All structures intended as permanent or seasonal residential structures, or intended as a permitted Conditional Use under this Ordinance, shall be constructed on an engineered concrete slab or constructed on footings extending below frost level.

SECTION 12 ZONING OFFICER

A. The Town Board shall designate the Zoning Officer, and with the prior approval of the Town Board, shall have the authority to issue "Building Site Permits" hereunder. The fee for the issuance of a "Building Site Permit" shall be established by the Town Board. In the event construction has begun prior to the issuance of a "Building Site Permit," the fee for a site permit shall be tripled.

B. Conditional use "Building Site Permits" are to be issued by the Zoning Officer, after review by the planning committee and followed by approval of the Town Board.

C. When the Zoning Officer receives a request for a "Building Site Permit," he/she shall assemble as much guiding information/material as possible to assist the applicant with expeditious completion of the application. When the Zoning Officer receives the

completed form, he/she shall respond within 30 days. That response may be either an approval, disapproval or a notice of an additional 30 day for further research for planning purposes. The Zoning Officer shall also arrange a meeting of the planning commission as soon as possible after receipt of a completed conditional use application. (MS 15.99)

D. The Zoning Officer will advise the Town Board and the Planning Commission on land use issues within the Township.

SECTION 13 BLIGHT

No person shall cause or allow land under their ownership or control to be used in a manner leading to an unhealthy condition or generally found to be in a condition not compatible with surrounding land use. Blight can consist of salvage materials, junk, non operable automobiles, solid waste, demolition debris, or scrap materials.

SECTION 14 ADVERTISING SIGNS

Advertising signs are permitted only as part of a Conditional Use Permit issued under this Ordinance. All advertising signs shall be no larger than thirty-two (32) Square feet in area

SECTION 15 ACCESSES

A. Access from all lots to the nearest existing public road shall be furnished by each parcel owner. Each lot owner is responsible for the construction, maintenance and paying the cost of driveways, including culverts which connect to Township highways, roads and cartways. Culverts must meet Township requirements for size and be properly installed at lot owner expense, and construction shall not be deemed complete until approved by the Zoning Officer.

B. Prior to construction of any new access from a township road the parcel owner must apply for and receive a driveway permit from the Zoning Officer. All driveways must meet current township requirements

SECTION 16 PLANNING COMMISSION

A. The Planning Commission is created in accordance with MS 462.354. The function of the Planning Commission is to assist the Town Board in its decision-making process, to collect pertinent data on permit applications and proposed changes/additions to official controls, and to review proposed zoning amendments.

1. The Planning Commission shall consist of five (5) members as appointed by the Township Board. One member shall be a member of the Township Board
2. Planning Commission members shall serve three-(3) year terms.

Section 17: ENFORCEMENT; PENALTIES AND VIOLATIONS

A. Whenever in this Ordinance or in any ordinance of the Township any act is prohibited or is made or declared to be unlawful, an offense or misdemeanor, or whenever in any ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefore, the violation of such provision of such ordinance shall be punished as a misdemeanor, with a fine and/or imprisonment as set forth in Minnesota statutes for the same. Each day that any violation of any provision of this Ordinance or of any town ordinance shall continue shall constitute a separate offense. The cost of prosecution shall be added pursuant to Minn. Stat. §366.01 Subd. 10. Alternately, the Township may pursue enforcement through civil remedies available to it, in its sole discretion.

B. In case of the amendment by the Town Board of any section of any ordinance for which a penalty is not provided, the general penalty as provided in the prior paragraph shall apply to the section, as amended.

C. If the Township Zoning Administrator finds a violation of the provisions of this Ordinance or any other ordinance of the Township, the landowner and any occupant shall be notified of the violation in writing. If the landowner and/or occupant fail to comply with the applicable ordinance within thirty (30) days after notification, the Township Zoning Administrator shall advise the Township Board. The Township Board shall determine whether to commence enforcement, and if it determines enforcement is warranted, shall determine steps for enforcement, in its discretion, up to and including prosecution or civil action through legal counsel.

1. Recovery of Costs. The owner of the land shall be personally liable for the costs to the Township for remediation, correction, abatement of other necessitated by the violation including all legal and administration costs and reasonable attorney's fees. The same shall be considered charges for services provided by the Township to such landowner. As soon as the work has been completed and the costs determined, the Township shall prepare a bill for the cost and mail it to the owner. The amount shall be immediately due and payable to the Township Clerk.

2. Assessment. If the Township is not fully reimbursed for all its reasonable costs incurred, it may be assessed in the manner of a special assessment under Minnesota

Statutes Chapter 429, section 514.67 or 366.012 against the lot of property to which the costs, charges and fees are attributed. The Town Board shall certify the assessment to the County Auditor for collection along with the real estate taxes for the following year or in annual installments, not exceeding three (3) years, as the Town Board may determine in each case.

SECTION 18: SEVERABILITY

If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, all remaining provisions shall remain in effect and shall not be affected by the ruling on the invalid section.

SECTION 19: EFFECTIVE DATE

Zoning Ordinance shall become effective and enforceable on the day following publication.

Published Date