

**WARSAW TOWNSHIP  
GOODHUE COUNTY, MINNESOTA**

**WARSAW TOWNSHIP ZONING ORDINANCE  
ORDINANCE NO. 7**

The Board of Supervisors of the Town of Warsaw ordains:

**CHAPTER I  
TITLE AND AUTHORITY**

The Board of Supervisors (“Town Board”) of Warsaw Township (the “Township”) hereby adopts this ordinance, which shall be known as the “Warsaw Township Zoning Ordinance” (this “Ordinance”), pursuant to its authority under Minnesota Statutes, sections 462.351 to 462.364 and such other law as may apply.

**CHAPTER II  
INTENT AND PURPOSE**

**Part 2.1. Intent.** It is the intent of this Ordinance to identify and classify all lands within the boundaries of the Township according to their most logical and appropriate long-term use and to establish regulations on structures, their use and the use of land in order to protect the public health, safety, and welfare. It is also the intent of this Ordinance to acknowledge lands within the Township are also subject to the zoning and subdivision regulations imposed by Goodhue County (the “County”) and the limitations imposed on the Township’s regulations under Minnesota Statutes, section 394.33, subdivision. 1. The goal of this Ordinance is to strike an appropriate balance between the regulations of the County and Township to serve the best interests of the Township and to focus on the land uses the Town Board determines are most appropriate to regulate locally given the comparatively limited resources of the Township.

**Part 2.2. Purpose.** It is the purpose of this Ordinance to:

- A. Protect the public health, safety and general welfare;
- B. Protect and preserve lands identified for long-term agricultural use;
- C. Promote well managed and staged development of residential, commercial, industrial, and public areas consistent with the regulations and standards set out in this Ordinance;
- D. Conserve and manage the use of natural resources; and
- E. Provide for the compatibility of different land uses and the most appropriate use of land throughout the Township.

## **CHAPTER III GENERAL PROVISIONS**

**Part 3.1. Jurisdiction.** This Ordinance shall apply to all areas within Warsaw Township, Goodhue County, Minnesota.

**Part. 3.2. Minimum Standards.** The provisions of this Ordinance shall constitute the minimum requirements and standards for the promotion of the public health, safety, and welfare. 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, statute, resolution or regulation of any kind, the regulations which are more restrictive, or which impose higher standards or requirements, must be followed in addition to the requirements imposed by this Ordinance. The issuance of a permit by the Township pursuant to this Ordinance does not relieve a person from having to obtain such other permits or permissions required by federal, state, or local laws, rules, regulations, codes, or ordinances. Similarly, the issuance of a permit by another governmental entity does not relieve a person from having to obtain a permit from the Township if a permit is required by this Ordinance. The Township has determined it is not necessary, or in the public's best interests, to adopt all of the regulations imposed by the County. However, to the extent this Ordinance does not regulate a matter, or does not require a permit in situations where the County may interpret its regulations as requiring a permit, shall not be interpreted as the Township being less strict than the County or as the Township exempting a use from having to obtain a County permit or such other permits or permissions as may be required by federal, state, or local laws, rules, regulations, codes, or ordinances. Individuals are responsible for contacting the County concerning all zoning related matters and no building, structure, or use of land is allowed in the Township unless it complies with both this Ordinance and the County's regulations.

**Part 3.3. Incorporation by Reference.** This Ordinance incorporates by reference various sections of the Goodhue County Zoning Ordinance ("County Ordinance") in effect as of June 2, 2020 as a means of promoting consistency between the two sets of regulations and avoiding redundancy. A copy of the June 2, 2022 County Ordinance shall be kept on file with the Township Clerk. To the extent of any inconsistency between the terms of this Ordinance and the County Ordinance, the terms of this Ordinance shall control. It is the intent to this Ordinance to only incorporate those sections specifically referenced herein and those portions of the County Ordinance directly related to the referenced sections which are necessary to make them operative as determined by the Town Board. Amendments made to the portions of the County Ordinance incorporated by reference shall not be deemed to be made part of this Ordinance unless they are processed and adopted by the Town Board as an amendment to this Ordinance. The County is responsible for administering and enforcing its regulations and nothing herein shall be construed as the Township adopting or otherwise being responsible for the administration or enforcement of the County's regulations. The County shall be responsible for administering and enforcing its regulations and the Township shall be responsible for administering and enforcing this Ordinance.

**Part 3.4. Compliance.** 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.

**Part 3.5. Responsibility.** The issuance of a permit or compliance with permit conditions or with the provisions of this Ordinance shall not relieve any person from any responsibility otherwise imposed by law including, but not limited to, damages caused or resulting to persons or property. The issuance of any permit hereunder shall not constitute a guarantee that the land, building, or structure is suitable for any particular purpose and shall not serve to impose any liability on the Township or its officers, employees, or agents for injury or damage to persons or property arising in any way from the occupation or use of a structure or land regardless of whether the Township has issued a permit.

**Part 3.6. Rules of Construction.** The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

- A. The singular includes the plural, and the plural the singular.
- B. The present tense includes the past and future tenses, and the future the present.
- C. The words “shall” and “must” are mandatory, and the word “may” is permissive.
- D. The masculine gender includes the feminine and neuter genders.
- E. A word or term defined in this Ordinance shall have the meaning given it in the definition. Any word or term not otherwise defined in this Ordinance shall have the meaning given it as defined in the County Ordinance. If no set definition is given, the word or term shall have the meaning given it in the most applicable state statute or rule. If there is no applicable definition, the word or term shall be construed according to the rules of grammar and according to their common and approved usage. Any question as to the meaning of a word or term used in this Ordinance, or of their application in a given situation, shall be determined by the Town Board.
- F. Permits issued by the Township for structures are referred to in this Ordinance as building permits. This term is descriptive of the subject matter of the permit and is not intended to suggest the Township has adopted or is administering the Minnesota State Building Code. The Township has not adopted, and does not administer, the Minnesota State Building Code.
- G. All measured distances expressed in feet shall be to the nearest 1/10 of a foot.
- H. If a use is not listed as being allowed within a particular zoning district, the use is not allowed within that district.

- I. General words are construed to be restricted in their meaning by preceding particular words.

**CHAPTER IV**  
**NONCONFORMING USES, STRUCTURES AND SUBSTANDARD LOTS**

**Part 4.1. Nonconforming Uses and Structures.** Any structure or use lawfully 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 subject to the following conditions and restrictions:

- A. No such use shall be expanded or enlarged except in conformity with the provisions of this Ordinance.
- B. If a nonconforming use is discontinued for a period of one year, further use of the structures or property shall conform to this Ordinance.
- C. If a nonconforming use is replaced by another use, the new use shall conform to this Ordinance.
- D. If a nonconforming structure is destroyed by any cause, to an extent exceeding 50 percent of its fair market value as indicated by the record of the County Assessor, a future structure on the site shall conform to this Ordinance.
- E. Alterations may be made to a lawful nonconforming dwelling when they will improve the livability of the dwelling provided, however, that they do not increase the number of dwelling units in the building or increase the non-conformity.
- F. Normal maintenance of a building or other structure containing or relating to a lawful nonconforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the nonconforming use. Nothing in this Ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Township or the County Zoning Administrator.

**Part 4.2. Substandard Lots.** For the purposes of this Ordinance, a substandard lot is a lot lawfully established and recorded with the County Recorder or Registrar of Titles as a separate tract or parcel prior to the effective date of this Ordinance. Except as otherwise provided in this part, a substandard lot shall be deemed a buildable lot provided that:

- A. It complies with regulations contained in the County Ordinance and Minnesota Rules, Chapter 7080 for proper placement of any individual sewage treatment system;
- B. The lot is at least one acre in area; and

- C. Any building or structure placed on the lot must comply with the requirements of this Ordinance, including setback requirements, unless a variance is applied for and issued by the Township. A variance for lot size or other dimensional requirements shall not be required for such lots.

## **CHAPTER V ADMINISTRATION**

**Part 5.1. Zoning Administrator.** The Town Board may appoint a zoning administrator who is responsible for the administration and enforcement of this Ordinance. If no such person is appointed, the Town Clerk shall serve as the zoning administrator. The zoning administrator is responsible for performing the following duties:

- A. Receive applications, related fees, and determine their sufficiency, and forward them for consideration as is appropriate, provided, however, that all applications shall initially be provided by any applicant in person, or in any other manner authorized by the Town Board, to the Town Board at a meeting of the Town Board.
- B. Determine if applications are complete and, if not, notify the applicant of the additional information needed to make it complete.
- C. Administer and provide required notices under the 60 day rule (Minnesota Statutes, section 15.99).
- D. Conduct inspections of buildings and use of land to determine compliance with the terms of this Ordinance.
- E. Provide, or assist in providing, notices required under this Ordinance.
- F. Process building permits, provided that such permits shall be issued only if approved by the zoning administrator and signed by one member of the Town Board.
- G. Enforce this Ordinance, including issuing violation notices, stop work orders, and correction notices.
- H. Assist the Planning Commission, Board of Appeals, and the Town Board as needed regarding the processing of applications and conducting public hearings.
- I. Maintain permanent and current records of this Ordinance including, but not limited to, all maps, amendments, and the conditional uses, variances, and appeals issued or granted pursuant to this Ordinance.

**Part 5.2. Planning Commission.** The Town Board has established the Warsaw Township Planning Commission (the “Planning Commission”), which is hereby reaffirmed by the adoption of this Ordinance.

Subp. 5.2.1. Duties. The Planning Commission shall have the powers and duties provided it by Minnesota Statutes, chapter 462 and as follows:

- a. Conduct the public hearings required or provided for under this Ordinance.
- b. Develop findings of facts and make recommendations to the Town Board on matters coming before it for consideration.
- c. Periodically review and make recommendations regarding proposed amendments to this Ordinance.
- d. Perform such other duties as may be provided in law, this Ordinance, or as directed by the Town Board.

Subp. 5.2.2. Composition. The Planning Commission shall consist of five 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.

Subp. 5.2.3. Appointment and Vacancies. The Town Board shall appoint the Planning Commission members. Vacancies occurring on the Planning Commission shall be filled by Town Board appointment for the remainder of the term of the position.

Subp. 5.2.4. Term. Planning Commission members are appointed for a term of three years and until a successor is appointed and qualifies. Terms expire on June 30<sup>th</sup>. Planning Commission members serve at the pleasure of the Town Board and may be removed by the Town Board at any time for any reason. The terms of Commission members are staggered to minimize the number of Commission positions expiring in the same year.

Subp. 5.2.5. 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 Planning Commission meetings and shall sign documents on behalf of the Planning 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 Planning Commission's proceedings, and countersign the Chair's signature on Planning Commission documents.

Subp. 5.2.6. Compensation. The Town Board shall determine if members will be compensated for their service on the Planning Commission, determine the amount of compensation if provided, and the policy for reimbursing necessary expenses incurred in carrying out the Planning Commission's duties.

Subp. 5.2.7. Rules and Procedures. The Planning Commission may adopt rules and procedures related to how it conducts its meetings and hearings.

Subp. 5.2.8. 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. The Planning Commission shall provide a public record of its proceedings which shall include the minutes of its meetings, its findings and the action taken on each matter heard by it, including its final recommendations.

**Part 5.3. Board of Appeals and Adjustments.** The Town Board has established the Warsaw Township Board of Appeals and Adjustments (the "Board of Appeals"), which is hereby reaffirmed by the adoption of this Ordinance. The Town Board shall serve and act as the Board of Appeals and Adjustments.

Subp. 5.3.1. Powers and Duties. The Board of Appeals shall have the following powers and duties with respect to this Ordinance:

- a. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of this Ordinance.
  - i. Actions or decisions of the Planning Commission and the Town Board shall not be appealable to the Board of Appeals
  - ii. An appeal from any order requirement, decision or determination of any administrative official relating to this Ordinance shall be taken within 14 days after receipt of notice of the order, requirement, decision, or determination by filing a notice of appeal.
  - iii. The notice of appeal shall be in writing, on the Township's form, specify the grounds of the appeal, indicate the relief being sought, and be submitted to the Town Clerk together with the applicable fee.
  - iv. The Board of Appeals will make its order deciding the matter within a reasonable time after the hearing and provide a copy of the order to the applicant by mail.
  - v. Decisions of the Board of Appeals are final.
- b. To hear and order the issuance or denial of variance requests, including imposing conditions on the variances it approves.
- c. The Board of Appeals shall have such other powers and duties as are assigned to it by law or the Town Board.

Subp. 5.3.2. Officers. The Chairperson of the Town Board shall serve as the Chairperson of the Board of Appeals and the Clerk shall serve as the Secretary of the Board of Appeals.

Subp. 5.3.3. Compensation. The Town Board shall determine if members will be compensated for their service on the Board of Appeals, determine the amount of compensation if provided, and the policy for reimbursing necessary expenses related to attending meetings and in the conduct of the business of the Board of Appeals.

Subp. 5.3.4. Rules and Procedures. The Board of Appeals may adopt rules and procedures related to how it conducts its meetings and hearings. The Board of Appeals shall provide a public record of its proceedings which shall include the minutes of its meetings, its findings and the action taken on each matter heard by it, including the final order.

Subp. 5.3.5. Meetings. The Board of Appeals shall hold regular meetings as needed. The Chair or Vice-Chair, along with the consent of at least one other Board of Appeals member, may call special meetings as needed to conduct the Board of Appeal's business.

**Part 5.4. Compliance with State Statutes.** The zoning administrator, Planning Commission and Board of Appeals shall take action within the deadlines imposed by Minnesota Statutes, section 15.99, as amended, so as to avoid the automatic approval of any written requests subject to the 60 day rule.

## **CHAPTER VI REQUESTS AND PROCEDURES**

**Part 6.1. Ordinance Amendments and Rezoning.** Requests to amend the text of this Ordinance or to rezone property by amending the zoning map shall be made in accordance with requirements and procedures established in this Part.

Subp. 6.1.1. Initiation. An amendment to the text of the Ordinance or the zoning map may be initiated by the Town Board, Planning Commission, or by application of a property owner.

- a. An amendment proposed by a property owner shall be submitted on the Township's application form and be submitted to the Town Clerk together with the applicable fee. The Town Clerk shall forward complete applications to the Planning Commission to conduct a hearing.
- b. An amendment proposed by the Planning Commission shall be forwarded to the Town Board for its review. If the Town Board determines the proposed amendment may proceed, it shall return it to the Planning Commission for it to conduct a hearing on the proposed amendment.



- c. An amendment proposed by the Town Board shall be forwarded to the Planning Commission for review and a hearing.

Subp. 6.1.2. Required Information for Proposed Ordinance Amendment. An application to amend the text of the Ordinance shall include the following:

- a. Stated reason for change requested.
- b. Statement on compatibility with the intent of the Ordinance.
- c. Text of portion of the existing ordinance to be amended.
- d. Proposed amended text and statement outlining any other effects the amendment may have on other portions of the Ordinance.
- e. Additional information as may be requested by the Planning Commission or the Town Board.

Subp. 6.1.3. Required Information for Zoning Changes. An application to rezone property shall include the following:

- a. The names and addresses of the petitioner(s) and their signatures to the petition.
- b. If the parcel(s) requesting to be rezoned cannot be describe as an aliquot part of a Public Land Survey Section (the minimum division being described as a Quarter Quarter of a Section), a Certificate of Survey prepared and signed by a Minnesota Licensed Surveyor is required that contains the following information:
  - i. A boundary survey (drawn to scale) and the description of the area proposed to be rezoned.
  - ii. A statement indicating the parcel identification number which is affected by the rezoning request; indicate if the proposed area is a split or combination of parcels; (any splits must be accompanied by a description of the remainder).
  - iii. Any improvements such as buildings, fences, roads, driveways, etc. within 200 feet of the proposed boundary of the area to be rezoned.
  - iv. Vicinity map.
- c. The current district classification of the area and the proposed district classifications.

- d. The current use and the proposed use of the land (a statement of the type, extent, area, etc.).
- e. The reason for the requested rezoning.
  - i. A copy of the soil map showing the soil types within the proposed boundary and the surrounding area.
  - ii. Prime Farmland Rating of the soil types.
  - iii. A statement of how the requested change is compatible with the Ordinance including, but not limited to, the following:
    - 1. The environmental impacts of the proposed use of land on the:
      - 1) Groundwater
      - 2) Natural plant and animal communities
      - 3) Existing trees and vegetation
      - 4) Bluff land stability
      - 5) Shoreland stability
    - 2. The compatibility with surrounding land uses.
    - 3. The physical and visual impact on any scenic or historic amenities within or surrounding the proposed parcel.
  - iv. The housing density of the affected Section.
  - v. The impact on any surrounding agricultural uses.
  - vi. The impact on local roads.
  - vii. The impact on surrounding zoning districts.
  - viii. A statement concerning the cumulative effect and compatibility of the requested zoning change on the Township and any cities located within 2 miles of the proposed parcel.
  - ix. Additional information as may be requested by the Planning Commission or Town Board.

Subp. 6.1.4. Procedure. Upon receipt of a complete application, the request shall be heard and decided upon as follows.

- a. The Town Board shall provide at least 10 days' published notice of the time, place and purpose of any public hearing to be held by the Planning Commission concerning the proposed amendment. In addition, when an amendment involves a change in district boundaries or zoning use changes, all property owners of record within five hundred (500) feet of the incorporated areas and/or one-quarter (1/4) mile of the affected property or to the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners of unincorporated areas impacted by the proposed amendment, shall be notified by depositing a written notice in the U.S. Mail, postage prepaid, as to the time and place of the public hearing. All municipalities within two (2) miles of the proposed district boundary or zoning use changes shall be given proper notice. When an amendment involves changes in district boundaries or zoning use changes, affecting an area of five acres or less, property owners within 350 feet of the subject property shall be notified by mail, although failure of any property owner to receive such notification will not invalidate the proceeding.
- b. The failure to give mailed notice to the individual owners, or defects in the notice shall not invalidate the proceedings provided a good faith attempt to comply with this subpart has been made.
- c. The Planning Commission shall conduct the public hearing. The applicant, or a representative, shall attend the hearing in order to answer questions the Planning Commission may have concerning the requested amendment. At the conclusion of the hearing, the Planning Commission shall make and forward to the Town Board for its next regularly scheduled meeting its recommendation regarding the proposed amendment together with its findings in support of its recommendation.
- d. The Planning Commission shall base its recommendation to the Town Board upon consideration of the elements contained in Subps 6.1.3 and 6.1.4., information provided with the application, information gathered from the public hearing, and any additional information. The recommendation shall be supported by findings and reasons contemporaneously adopted by the Planning Commission.
- e. Upon receiving the Planning Commission's report or recommendation, the Town Board, at a board meeting, shall decide whether to adopt the requested amendment, modify it, or hold additional public hearings, as it deems advisable. After the conclusion of the hearings, if any, the Town Board may adopt the amendment or any part thereof. The applicant shall be responsible for the costs the Town Board incurs to record the amendment with the County Recorder's office.

- f. The Town Board shall make the final decision on the application based on the application materials, information gathered from the public hearing, any additional information provided by the public, the Planning Commission's recommendation, and any other information it determines is relevant in making its decision.
- g. No application of a property owner for an amendment to the text of the Ordinance or the zoning map shall be considered by the Planning Commission within a one-year period following a denial of a similar request, except the Planning Commission may allow a new application if, in the opinion of the Planning Commission, new evidence or a change of circumstances warrants a reconsideration of the proposed amendment.

Subp. 6.1.5. Appeal. An appeal from final decisions of the Town Board relating to actions taken in regard to the Warsaw Township Ordinance or zoning amendments shall be filed with the district court within 30 days from the date of the decision being appealed.

**Part 6.2. Conditional and Interim Use Permits.** Applications for a conditional use permit (CUP) or interim use permit (IUP) must be submitted and shall be processed in accordance with this Part. Interim use permits shall be considered only for an activity or use of limited duration, and any application and permit for an interim use shall specify the pertinent time limits.

Subp. 6.2.1. Application. An application for a conditional or interim use permit shall be submitted on the Town Board's application form and shall be submitted in person, or in any other manner authorized by the Town Board, at a meeting of the Town Board together with the applicable fees. The application shall, at a minimum, explain in detail how the proposed use satisfies the criteria stated in this Part. The zoning administrator shall forward complete applications to the Planning Commission to conduct a hearing.

Subp. 6.2.2. Procedure. A complete application for a CUP/IUP shall be processed and considered as follows.

- a. The Town shall provide at least 10 days' published notice of a hearing to be held concerning the requested permit. Property owners contiguous to the subject property shall be mailed notice of the hearing, although failure of any property owner to receive notification shall not invalidate the proceeding. All property owners of record within five hundred (500) feet of the incorporated areas and/or one-quarter (1/4) mile of the affected property or to the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners of unincorporated areas where the conditional or interim use is proposed shall be notified by depositing a written notice in the U.S. Mail, postage prepaid, as to the time and place of the public hearing. All municipalities within two (2) miles of the proposed conditional or interim use shall be given proper notice. Upon receipt of a complete application and other required material

submitted to the Zoning Administrator, a public hearing shall be scheduled for the Planning Commission to hear the request. The applicant, or a representative, shall attend the hearing in order to answer questions the Planning Commission may have concerning the requested permit.

- b. At the conclusion of the hearing, the Planning Commission shall make a recommendation to the Town Board regarding the requested permit together with findings to support its recommendation. The Planning Commission may recommend that a conditional use be considered as an interim use. If the applicant consents to treating its request as being for an interim use permit, the Planning Commission's recommendation shall be regarding an interim use permit. If the applicant does not consent, the Town Board will act on the conditional use permit request. Following the public hearing, if the recommendation is to approve the permit, the Planning Commission shall include any conditions it recommends be placed on the permit. The Planning Commission's recommendation shall be forwarded to the Town Board for its next regularly scheduled meeting.
- c. The Town Board shall make the final decision on whether to grant the requested permit. If it grants the permit, the Town Board may impose conditions it considers necessary to protect the public health, safety, and welfare. The applicant shall be responsible for the costs the Town Board incurs to record the permit with the County Recorder's office.
- d. The Town Clerk shall provide the County Zoning Administrator with a copy of the final permit issued by the Town Board for the County's information.

Subp. 6.2.3. Criteria for Granting Conditional Use and Interim Use Permits. In determining whether to grant a conditional or interim use permit, the Town Board shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety 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 values of property and scenic views in the surrounding areas. No conditional or interim use shall be approved unless the Town Board makes the following findings with respect to the proposed use:

- a. That the conditional or interim use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the immediate vicinity, taking into account factors such as: frequency of activities; whether alcohol is consumed; proximity to residences with young children; modes of transportation involved; and the number, time of day and season of activities.

- b. That the establishment of the conditional or interim use will not impede the normal and orderly development and improvement of surrounding property for uses predominant to the area.
- c. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided, taking into account the road type (tar/gravel), condition and existing levels of traffic use.
- d. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
- e. That adequate measures have been or will be taken to prevent or control offensive odor, light, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

The Town Board may deny an application if it determines a Township road that provides access to the property is not structurally sufficient to safely accommodate the amount of traffic or the weight of the vehicles the proposed use is anticipated to generate. An application may also be denied if the Town Board determines the proposed use would create other health, safety, or welfare concerns that cannot reasonably be mitigated through the imposition of conditions on the permit. If the Planning Commission or Town Board determines, and the applicant consents, the requested use should be treated as an interim use, the Town Board may limit the duration of the use and establish an expiration date or event on which the permit shall expire.

Subp. 6.2.4. Conditions for Granting Conditional or Interim Use Permits. In permitting a new conditional or interim use or the alteration of an existing conditional or interim use, the Town Board may impose, in addition to these standards and requirements expressly specified by this Ordinance, additional conditions which it considers necessary to satisfy the criteria in this Part and 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:

- a. Increasing the required lot size or yard dimension;
- b. Limiting the height, size or location of buildings;
- c. Controlling the location and number of vehicle access points;
- d. Increasing the width or carrying capacity of roads providing direct access;
- e. Increasing the number of required off-street parking spaces;
- f. Limiting the number, size, location or lighting of signs;

- g. Requiring diking, fencing, screening, landscaping or other facilities, or dust control of adjoining gravel roads, to protect adjacent or nearby property;
- h. Designating sites for open space;
- i. Limiting the number of people that may be on the site;
- j. Limiting the number of vehicles on a site;
- k. Limiting days and/or hours of operation;
- l. Limiting noise, odor and light creating activities and operations;
- m. Limiting the duration of the use and providing an expiration date for the permit;
- n. Requiring sanitary and other facilities necessary for the safe and healthy operation of the proposed use;
- o. Requiring the property owner to reside on the property at issue; and
- p. Such other limitations and restrictions as the Town Board determines is necessary to avoid or reduce the negative impacts of the use on the surrounding properties or the public.

Subp. 6.2.5. Amendments. Any change to the permitted use including, but not limited to, alteration or enlargement of structures or the change, intensification or expansion of the use beyond what is allowed by the permit issued for the property shall require an amended permit. The same procedures and requirements for applying for a new conditional or interim use permit shall apply to those seeking an amended permit. Furthermore, the Town Board may add to or amend the conditions imposed on the use if it issues the amended permit.

Subp. 6.2.6. Reapplication and Revocation.

- a. If the Town Board denies an application, the same or similar application shall not be resubmitted for the property for at least twelve (12) months from the date of the denial.
- b. A violation of any of the conditions placed on an conditional or interim use permit may result in the revocation of the permit.
- c. A violation of any condition set forth in a conditional or interim use permit shall be a violation of both the permit and this Ordinance.

- d. The Town Board shall provide the owner written notice of the violation. Failure to satisfactorily correct a violation within thirty (30) days of written notice from the Town Board shall be grounds to revoke a permit through the following procedure:
  - i. The Town Board shall give at least ten (10) days written notice to the permit holder, advising that the permit may be revoked by the Town Board. The written notice shall also contain the nature of the violation and the facts that support the conclusions that a violation exists.
  - ii. The Town Board shall hold a public hearing.
  - iii. The Town Board shall consider the relevant information, and may:
    - 1. Revoke the permit; or
    - 2. Make a finding that a violation does not exist or has been corrected.
- e. The Town Board may periodically review a permit to ensure its conditions have been maintained.

Supb. 6.2.7. Appeal. An appeal from final decisions of the Town Board relating to conditional and interim use permits shall be filed with the district court within 30 days from the date of the decision being appealed.

**Part 6.3. Variances.** Requests for a variance from the strict application of the requirements of this Ordinance shall comply with this Part.

Subp. 6.3.1. Application. An application for a variance shall be made on the Town Board application form and shall be submitted in person, or in any other manner authorized by the Town Board, at a meeting of the Town Board, together with the applicable fees. The Town Clerk shall forward complete applications to the Planning Commission.

Subp. 6.3.2. Procedure. A complete application for a variance shall be processed and considered as follows.

- a. The Town Board shall provide at least 10 days' published notice of a hearing to be held concerning the requested variance. All property owners of record within five hundred (500) feet of the incorporated areas and/or one-quarter (1/4) mile of the affected property or to the ten (10) properties nearest to the affected property, whichever would provide notice to the greatest number of owners of unincorporated areas where the variance is proposed shall be notified by depositing a written notice in the U.S. Mail, postage prepaid, as to the time and place of the public hearing. All municipalities within two (2) miles of the proposed variance shall be given



proper notice. Upon receipt of a complete application and other required material submitted to the Zoning Administrator, a public hearing shall be scheduled for the Planning Commission to hear the request. The applicant, or a representative, shall attend the hearing in order to answer questions the Planning Commission may have concerning the requested variance.

- b. At the conclusion of the hearing, the Planning Commission shall make a recommendation to the Town Board regarding the requested variance together with findings to support its recommendation. If the recommendation is to approve the variance, the Planning Commission shall include any conditions it recommends be placed on the variance. The Planning Commission shall include a statement of any findings it made concerning the proposed variance with the recommendation it forwards to the Town Board.
- c. The Town Board, acting as the Board of Appeals and Adjustments, shall make the final decision on whether to grant the requested variance. If it grants the variance, the Town Board may impose such conditions on the variance as it considers necessary to protect the public health, safety, and welfare, provided the conditions are directly related to and bear a rough proportionality to the impact created by the variance.
- d. If the Town Board denies an application, the same or similar application shall not be resubmitted for the property for twelve (12) months from the date of the denial.
- e. A violation of any condition set forth in granting a variance shall be in violation of this Ordinance and may result in the revocation of the variance. The Town Board will provide the property owner at least ten (10) days' notice and conduct a public hearing before revoking a variance.
- f. The Town Clerk shall record the variance with the County Recorder or Registrar of Titles, and provide the County Zoning Administrator with a copy of the variance issued by the Town Board for the County's information.

Subp. 6.3.3. Criteria for Granting Variances. A variance may only be granted from the literal provisions of the Ordinance if the Town Board finds the applicant sufficiently demonstrated that the following circumstances exist with respect to the particular request:

- a. There are practical difficulties in complying with the Ordinance that are not based solely on economic considerations;
- b. All building, grading and development activities shall be reviewed with the goal of minimizing loss or disruption of "Prime Agricultural Soils" as

identified in the Goodhue County Soil Survey (United States Department of Agriculture Web Soil Survey);

- c. 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 owners of the property since enactment of this Ordinance have had no control;
- d. The issuance of the variance is in harmony with the general purpose and intent of the Ordinance;
- e. The applicant proposes to use the property in a reasonable manner permitted by the Ordinance;
- f. The variance, if granted, will not alter the essential character of the locality;
- g. The plight of the applicant is due to circumstances unique to the property not created by the owner; and
- h. The variance will not allow any use that is not permitted under the Ordinance for a property in the zone where the affected applicants land is located.

Subp. 6.3.4. Expiration of Variance. A variance shall expire and be considered null and void one (1) year after the Town Board's final decision to grant the variance if no permit for construction has been issued. One (1) administrative extension of up to one (1) year may be granted by the Town Board upon written request of the property owner, provided there is reasonable cause for the request and further provided that the written request is made no less than thirty (30) days prior to expiration of the variance. If no extension has been requested the Town Clerk shall record a variance expiration notice with the County Recorder.

**Part 6.4. Building Permits.** No construction, alteration, expansion, or placement of a building or structure involving a cost exceeding \$1,000 shall occur in the Township except upon issuance of a building permit by the Township, and a building permit issued by the County Building Official.

Subp. 6.4.1. Application and Procedure. Persons requesting a building permit shall submit a completed application to the Town Clerk together with the applicable fee. A site plan must be submitted with the application that shows the location of existing and proposed structures, wells, septic tank, drainfield, and applicable setbacks on the property as well as the distance to the nearest dwelling. For any building or structure involving a cost exceeding \$25,000 or an improved square footage of at least 2,000 square feet, such site plan shall be prepared by a Minnesota licensed surveyor, show all required setback distances, and the corners of the proposed building or structure staked or, in lieu of a

survey, such alternative method of measurement and documentation as may be approved by the Town Board, in lieu of a survey. The Town Clerk shall forward complete applications to the Town Board. The Town Board shall review the application and, if it determines the proposed project complies with the requirements and restrictions of this Ordinance, shall issue the building permit. The Town Board, at its discretion, may submit the application to the Planning Commission for review and a recommendation on whether the proposed use is allowable under this Ordinance. The permit is valid only for the particular building or structure and for the particular location on the property. Any alteration of the location or other aspect of the permitted project shall not occur except upon issuance of a new or amended building permit.

## **CHAPTER VII DISTRICT PROVISIONS**

**Part 7.1. Districts Established.** For the purposes of this Ordinance, Warsaw Township is hereby divided into the following zoning districts and the buildings, structures and uses of land shall be subject to the requirements and regulations prescribed by this Ordinance for the particular district in which they are located. No other zoning districts are allowed under this Ordinance.

### Primary Districts

A1 – Agricultural Protection

A2 – Agricultural

R1 – Suburban Residential

**Part 7.2. Zoning Map.** The location and boundaries of the districts established by this Ordinance are hereby set forth on the zoning map of Warsaw Township, a copy of which is attached hereto as Exhibit A, and said map is hereby made part of this Ordinance.

**Part 7.3. Overlay Districts.** Certain lands within the Township are also subject to overlay districts identified by the County and include floodplain (FP), shoreland (S), and wetland (W). The areas within the Township identified as being in one or more of these overlay districts are subject to the regulations and requirements imposed by the Township and the County in the underlying primary district in which they are located as well as the regulations and requirements imposed by the County in the applicable overlay districts.

**Part 7.4. Permitted Uses.** No structures, building or tract of land shall be devoted to any use other than a permitted use in the zoning district in which such structure, or tract of land shall be located, with the following exceptions:

Subp. 7.4.1. Conditional and interim uses allowed in accordance with the provisions of this Ordinance.

Subp. 7.4.2. Any structure which will, under this Ordinance, become non-conforming but for which a building permit has been lawfully granted prior to the effective

date of this Ordinance and continues to completion within one year after the effective date of this Ordinance, shall be a non-conforming structure.

Subp. 7.4.3. 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.

#### **Part 7.5. Agricultural Protection (A1).**

Subp. 7.5.1. Purpose. This district is to maintain, conserve and enhance agricultural lands which are historically valuable for crop production, pasture land, and natural habitat for plant and animal life. This district is intended to encourage long-term agricultural uses and preserve prime agricultural farmland by restricting the location and density of non-farm dwellings and other non-farm land uses.

##### Subp. 7.5.2. Permitted Uses.

- a. Single family dwellings.
- b. Any agricultural use including tree farms and vineyards, but excluding agricultural related use and application of manure generated from outside of Township.
- c. Confined feedlots as regulated in Article 13 of the County Ordinance.
- d. Direct marketing of produce in a Farm Market/On-Farm Market/Roadside Stand in a retail structure not to exceed 2400 square feet in area.
- e. Plant nurseries and sales, in a retail structure not to exceed 2,400 square feet.
- f. Home occupations as regulated in Article 11 of the County Ordinance.
- g. Special Event Uses, but only if (i) no fee is charged, (ii) the event occurs no more often than 4 times annually, and (iii) there are fewer than 300 people in attendance during the event.
- h. Auctions, when conducted at a single family farm or farm dwelling, to sell property already in place and not brought in for sale, conducted no more than three times a year at any one location.

Subp. 7.5.3. Conditional Uses and Interim Uses. In the A-1, Agricultural Protection District, the following uses may be allowed subject to obtaining a conditional or interim use permit in accordance with the provisions of Article 4 of this Ordinance.

- a. A mobile home as a temporary second dwelling when there is a need to provide health care services to residents of one of the dwellings, as an interim use only.
- b. Any aircraft landing field and associated facilities.
- c. Any mining, quarrying, excavating, or filling of land subject to the standards in Part 8.2 of this Ordinance.
- d. Any community building, church, cemetery or memorial garden.
- e. Any commercial radio and television towers and transmitters, provided that any such tower or transmitter shall be set back at least 1,000 feet from any existing dwelling on adjacent property.
- f. Any public, private or nursery school.
- g. Any public stable.
- h. Any raising of fur bearing animals or commercial kennel.
- i. Wind energy conversion systems and solar energy production systems with an area of 200,000 square feet or more, provided that there shall be a setback of at least 2,500 feet from any existing dwelling on an adjacent property.
- j. Farm Wineries in buildings up to 10,000 square feet.
- k. Commercial and industrial uses primarily intended to serve the agricultural business community.
- l. Any boarding and rooming houses or bed & breakfast inn as an accessory use.
- m. Any veterinary clinic.
- n. Any park or recreational area operated by a governmental agency.
- o. Hunting club or shooting preserve.
- p. Temporary or seasonal off-site roadside produce stands. No more than two (2) signs totaling fifty (50) square feet of sign area advertising the stand, shall be permitted. In addition, the structure shall be limited in size to two thousand four hundred (2,400) square feet.
- q. Educational Farm Retreat.

- r. Agri-tourism. “Agri-tourism” means the practice of visiting an agribusiness, horticultural, or agricultural operation, including, but not limited to, a farm orchard, vineyard, winery, greenhouse, hunting preserve, a companion animal or livestock show, for the purpose of education, or active involvement in the operation, other than as a contractor or employee of the operation.
- s. Direct marketing of produce in a Farm Market/On-Farm Market/Roadside Stand in a structure that exceeds 2,400 square feet in area.
- t. Residential accessory building(s) exceeding seven thousand two hundred (7,200) square feet.
- u. Special Event Uses, which occur no more than 4 times annually, and either (i) no fee is charged or (ii) a fee is charged but there are fewer than 300 people in attendance during the event.
- v. A second farm dwelling.
- w. Commercial stockpiling of animal manure generated outside of the Township.

Subp. 7.5.4. Accessory Structures. Accessory structures customarily incidental to any of the above permitted uses shall be permitted when located on the same property. Any accessory structure that is not located on the same property as a dwelling must apply for a conditional use permit as provided in Part 6.2.

Subp. 7.5.5 General District Regulations. Any lot in the A-1, Agricultural Protection District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

- a. Lot Size.
  - i. Dwelling shall be located on parcels containing a buildable area of not less than two (2) acres.
  - ii. The lot is large enough and so situated as to meet the standards contained in Minnesota Rules Part 7080 (MPCA Individual Sewage Systems Standard).
- b. Density.
  - i. Four (4) single family dwellings per section unless additional dwellings are permitted by Subp. 7.5.2(b).

- c. Yard Requirements. Every permitted, conditionally permitted dwelling, or accessory structure shall meet the following yard requirements:
  - i. Each lot shall have a minimum width of one hundred (100) feet at the building line.
  - ii. Front Yard of all Structures.
    - 1. There shall be a minimum setback of sixty (60) feet from any right-of-way lines.
    - 2. 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.
  - iii. Side and Rear Yard.
    - 1. Rear and side yard setbacks shall be a minimum of thirty (30) feet. However, buildings housing three or more animals shall be subject to a side and rear yard setback of two hundred (200) feet from the property line and five hundred (500) feet from any existing dwelling on any adjacent property.
- d. Public Road Frontage or Road Access Easement Standards:
  - i. Each lot shall include a minimum 33 feet of frontage on a public road right-of-way extending to the building line. As an alternative a single lot that does not front on a public road may be permitted upon recording (with the Goodhue County Recorder) of a driveway access easement that is a minimum of 33 feet in width and has been determined to be acceptable by the Goodhue County Land Use Management Department.
  - ii. Two lots that do not front on a public road may be permitted upon recording (with the Goodhue County Recorder) of a shared driveway access easement that is a minimum of 66 feet in width and has been determined to be acceptable by the Goodhue County Land Use Management Department.
  - iii. Access for three (3) or more lots shall meet the requirements for public roads in the Goodhue County Subdivision Ordinance.
- e. Bluff Impact Zone. For any use or structure in the A-1 District, the setback from the bluff impact zone shall be no less than thirty (30) feet.

- f. Height Requirements. Every permitted, conditionally permitted or accessory building shall meet the following height requirements:
  - i. Agricultural buildings shall be exempt from the height requirements.
  - ii. Buildings other than agricultural buildings shall not exceed thirty-five (35) feet in height.

Subp. 7.5.6. General Regulations.

- a. Each permanent dwelling shall be sited on a separately surveyed or described parcel.
- b. Any building in which the keeping of three or more livestock, fur bearing animals, or dogs (when such keeping results in the accumulation of animal wastes) is carried on shall maintain a setback of two hundred (200) feet from the property line and five hundred (500) feet from any dwelling on adjacent property.
- c. All building, grading and development activities shall be reviewed with the goal of minimizing loss or disruption of “Prime Agricultural Soils” as identified in the Goodhue County Soil Survey (United States Department of Agriculture Web Soil Survey).

**Part 7.6. Agricultural (A2).** Part 7.5 of the County Ordinance is hereby adopted by reference and incorporated herein, except as follows: Subp. 7.5.5.b. shall be amended, for purposes of incorporation into this Part 7.6, to read as follows:

- a. Twelve (12) single family dwellings per section unless additional dwellings are permitted by Subp. 7.5.2.b. Any dwellings shall be limited to one per  $\frac{1}{4}$ ,  $\frac{1}{4}$  section, except as allowed by Subp. 7.5.2.b.

**Part 7.7. Suburban Residential (R1).** Article 24 of the County Ordinance is hereby adopted by reference and incorporated herein, except as provided in this subpart and in Part 7.8 of this Ordinance.

**Part 7.8. Uses Not Regulated.** The following uses are not regulated by this Ordinance, but may occur in the Township to the extent they are allowed by the County Ordinance and upon the issuance, to the extent required, of a permit by the County:

Subp. 7.8.1. Confined feedlots. Confined feedlots are regulated by Article 13 of the County Ordinance.

Subp. 7.8.2. Regulated Animals. Regulated animals are regulated by the Goodhue County Regulated Animals Ordinance.



Subp. 7.8.3. Bluff Land Protection. Bluff lands are regulated in Article 12 of the County Ordinance.

Subp. 7.8.4. Wild and Scenic River Regulations. Wild and scenic rivers are regulated in Article 29 of the County Ordinance.

Subp. 7.8.5. Shoreland Regulations. Shoreland regulations are regulated in Article 31 of the County Ordinance.

Subp. 7.8.6. Floodplain Regulations. Floodplains are regulated in Article 32 of the County Ordinance.

Subp. 7.8.7. Wetland Regulations. Wetlands are regulated in Article 33 of the County Ordinance.

Subp. 7.8.8. State Building Code. The County has adopted and administers the state building code.

Subp. 7.8.9. Subsurface Sewage Treatment Systems. Subsurface sewage treatments systems are regulated by the Goodhue County subsurface sewage treatment Ordinance.

Subp. 7.8.10. Environmental Reviews. The Township shall not be the governmental unit for the purposes of conducting environmental reviews. Environmental reviews are regulated in Article 11, Section 23 of the County Ordinance.

Subp. 7.8.11. Subdivision Regulations. Subdivisions are regulated by the Goodhue County Subdivision Controls Ordinance.

**Part. 7.9 Uses Not Allowed.** Whenever, in any zoning district, a use is neither specifically allowed or denied, the use shall be considered prohibited. In such case, the Town Board or the Planning Commission, on their own initiative or upon request of a property owner, may conduct a study to determine if the use is acceptable and, if so, what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The Town Board or Planning Commission, upon receipt of the study, shall, if appropriate, initiate an amendment to this Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the Township.

## **CHAPTER VIII PERFORMANCE STANDARDS**

**Part 8.1 Performance Standards Established.** Article 11 of the County Ordinance is hereby adopted by reference and incorporated herein, except as provided in this Part.

Subp. 8.1.1. Building Regulations and Restrictions. The following restrictions shall apply in all districts in the Township.

- a. No building or structure shall be erected, placed, converted, enlarged, reconstructed or structurally altered without complying with the provisions of this Ordinance.
- b. A Goodhue County Building Permit and a building permit from the Township shall be obtained before anyone may undertake a construction, alteration, or expansion project on a building or structure if the cost of the project is reasonably anticipated to exceed \$1,000. A building permit issued by the Township is limited to the description of the project contained in the application and to the site identified by the owner.
- c. All dwellings shall have at least 600 square feet of floor space on the first or ground floor.
- d. A new dwelling shall be set back at least 1,000 feet from any existing dwelling. The building permit application for a new dwelling must be accompanied with a survey certified by a licensed surveyor showing the distance of the proposed building site to the nearest existing dwelling. The proposed building site shall be staked by the surveyor when seeking a permit and the building location may not be changed after the application is submitted without the consent of the Town Board or without submitting a new application. An alternative method of measuring and documenting the required location and setbacks may be substituted with the prior consent of the Town Board.
- e. No new approaches shall be constructed onto a Township road except upon issuance of a permit by the Township. For the purpose of safety and road upkeep, all new driveways or road approaches must be sloped away from existing or new roads for a minimum distance of 14 feet. The approach must otherwise be constructed in accordance with any requirements imposed by the permit and such other rules and regulations the Town Board may adopt regarding approaches.
- f. All site plans required in this Ordinance shall be prepared and certified by a licensed surveyor.

## **Part 8.2 Mineral Extraction**

Subp. 8.2.1 Purpose. The purpose of this Part is to protect the public health, safety, and welfare, and in accordance with Part 2.2 of this Ordinance, through the following:

- a. Evaluate mineral extraction proposals to minimize conflicts with other land uses.

- b. Establish permitting requirements, environmental review procedures and performance standards to regulate mineral extraction.
- c. Ensure mineral extraction operations are only located adjacent to highways and roads that have a sufficient width and carrying capacity to safely accommodate hauling activities from the site.
- d. Establish standards that prevent or minimize environmental and aesthetic impacts on extracted properties, adjacent properties and the Township as a whole.
- e. Establish standards and financial guarantees that restore extracted land to a condition compatible with adjacent properties and suitable for future uses.

Subp. 8.2.2. Definitions. For the purposes of this Part, the following terms shall have the meaning given them in this subpart.

- a. Accessory Uses. Accessory uses of a mineral extraction facility include the manufacture, storage and sale of products made from minerals on the premises and storage and sale of minerals, recycled asphalt, recycled concrete and topsoil not extracted on the premises.
- b. Comprehensive Plan. The Goodhue County Comprehensive Plan.
- c. County. The County of Goodhue, Minnesota.
- d. Dewatering. The pumping, extraction, or removal of surface and subsurface water
- e. Dust. Airborne mineral particulate matter.
- f. Excavation. The removal of soil and minerals from the ground.
- g. Mineral Resource. Sand, gravel, rock, clay, topsoil, and similar higher density non-metallic natural minerals.
- h. Mineral Extraction. The removal of sand, gravel, rock, clay, topsoil, and other minerals from the ground and off the site.
- i. Mineral Extraction Facility. Any area that is being used for removal, stockpiling, processing, transferring, or storage of minerals.
- j. Mineral Extraction Permit. The permit required for mineral extraction facilities.

- k. Mining Technical Evaluation Panel. A panel of two or more professional experts in the fields of mining, engineering, geology, hydrology, ecology, and landscape architecture that are retained for the purpose of reviewing and evaluating mining proposals, requesting pertinent information necessary for the application review, and reporting findings to staff, the Planning Commission, and the Town Board. The panel's fees and expenses shall be paid for by the applicant.
- l. Operator. Any person or persons, partnerships, or corporations or assignees, including public or governmental agencies, engaging in mineral extraction
- m. Principal Use. The principal use of mineral extraction facility is the extraction, processing, storage and sale of minerals from the facility.
- n. Processing. Any activity which may include the crushing, screening, washing, stockpiling, compounding, mixing, concentrating, or treatment of sand, gravels, rocks, or similar mineral products into consumable products such as construction grade sand, gravel, concrete, asphalt, glass, agriculture lime or other similar products.
- o. Reclamation. To renew land to self-sustaining long-term use which is compatible with contiguous land uses, present and future, in accordance with the standards set forth in this ordinance.
- p. Silica Sand. Round formed sand having a high percentage of silicon dioxide (quartz) found primarily in high concentration in the Jordan and St. Peter Geologic Formations.
- q. Soil. A natural three-dimensional body of the earth's surface.
- r. Subject Property. The land on which mineral extraction is permitted.
- s. Topsoil. The upper portion of soils present that is the most favorable material for plant growth.

Subp. 8.2.3. Exceptions From Permit Requirements. A mineral extraction permit shall not be required for the following:

- a. Excavation for structure if a building permit has been issued.
- 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. Excavations not exceeding four hundred (400) cubic yards annually.

- d. Excavation for agricultural purposes if the excavated material is not moved off-site.
- e. Excavation for public utility purposes.
- f. Temporary excavations involving mining operations associated with road construction, including borrow pits, used exclusively for public infrastructure construction projects. If the project is under the administration of a public entity and the contract requires erosion control, sediment containment and site restoration provisions must be in compliance with MPCA's NPDES General Storm Water Permit. Temporary borrow pits must be closed and restored within 24 months of the first date of work on the project.

Subp. 8.2.4. Mineral Extraction Permit Required. Owners and operators of any proposed mineral extraction facility commencing on or after the adoption of this Ordinance shall be required to obtain an interim use permit from the Township in accordance with the interim use permitting requirements of this Ordinance and the additional procedures and requirements of this Part.

Subp. 8.2.5. Interim Use Permit Application for New Mineral Extraction Facilities.

- a. Application Form. An application for an interim use permit for a mineral extraction facility shall be submitted in person to the Town Board on a form supplied by the Township. The required information shall include, but is not limited to, the following:
  - i. The following maps of the entire site including areas within 1,000 feet of the boundaries of the surveyed parcel of the subject permit application. All maps shall be drawn at a scale of 1:2400 (one inch to two hundred feet) unless otherwise stated below:

Map A- Existing site conditions to include:

- 1. Property boundaries surveyed by a Minnesota Licensed Land Surveyor.
- 2. A survey which provides contour lines at five (5) foot intervals.
- 3. Existing vegetation including plant community, evaluation of condition of plant community, and dominate species.
- 4. Existing structures.

5. Existing pipelines, power lines and other utilities.
6. Easements affecting the permitted property.
7. Adjacent public road right-of-way.
8. Existing access points to public roads.
9. Test borings and monitoring wells used to characterize the site.
10. Threatened and Endangered Species on the site and within 1,320 feet of the site.
11. Distribution, thickness and type of existing topsoil and subsoil.
12. Location of existing historical, cultural, and archeological features identified in the SHPO and County's databases and those not identified but discovered onsite.
13. Location of areas previously affected by mining on site, including location of stockpiles, wash ponds, and sediment basins.
14. Existing drainage and permanent water areas and/or wetlands.
15. GEOLOGY
  - a) Geologic units and contacts.
  - b) Depth to bedrock (if applicable).
  - c) Confining units (clays, shale, siltstone).
  - d) Fracture patterns and traces (for rock quarries).
  - e) Location of any known caves, joints, fractures, sinkholes, stream sinks, and springs.
16. HYDROLOGY
  - a) Drainage patterns and permanent water areas within 600 feet of the property lines.
  - b) Water-table elevations with ground water flow direction.
  - c) Wells within one mile radius of the property lines showing location, depth, static water level, age, and construction.
  - d) Location and elevation of any known springs within

- 600 feet of the property lines.
- e) General location of septic systems within 600 feet of the property lines.
- f) Location of designated trout streams within 600 feet of the property lines.

Map B – Proposed operations to include:

1. Proposed boundaries of the mining extraction facility extents surveyed by a Minnesota Licensed Land Surveyor.
2. Vegetation protection plan for vegetation remaining on site.
3. Soil salvage plan, including storage areas, methods of protection from erosion, compaction and weeds.
4. Structures to be erected.
5. Location of sites to be mined showing depth of proposed excavation.
6. Location of tailing (stripping or overburden) deposits showing maximum height of deposits.
7. Location of processing areas and machinery to be used in the mining operation.
8. Location of storage of mined materials, showing height of storage deposits.
9. Location of vehicle parking.
10. Location of fuel storage.
11. Erosion and sediment control structures.
13. Water retention ponds.
14. Drainage Plan including revisions to existing drainage patterns.
15. Proposed internal road system including typical cross sections.
16. Proposed new access points to adjacent public roads.

17. Proposed haul routes of vehicles removing material from the pit including current spring weight restrictions on the proposed routes.

Map C – Reclamation plan. The Reclamation Plan must take into account the Performance Standards listed in this Part in addition to:

1. Property boundaries surveyed by a Minnesota Licensed Land Surveyor.
  2. Final grade of proposed site showing elevations and contour lines at five (5) foot intervals, extended 100 feet.
  3. Proposed land use after mining.
  4. Location, species, rate, and density of vegetation to be seeded and planted.
  5. Location and nature of any structure to be erected in relation to the end use plan.
  6. Proposed improvements such as roads, paths, ponds, etc.
  7. Topsoil restoration plan.
  8. Rates, kinds, and location of soil amendments.
  9. Mulching, erosion control fabric, and other soil stabilization methods.
  10. Include the grading plans, topsoil protection and replacement, seeding, re-vegetation, mulching, erosion control, and sedimentation control specifications for each phase and final restoration.
  11. Including quantified performance standards for the reclamation and maintenance of each plant community to be restored. These shall be based on a minimum percent cover of acceptable vegetation, maximum percent cover of unacceptable vegetation, and minimum species diversity at reclamation milestones: 0-24 months, 2-5 years, 6 years or more after substantial completion. Acceptable and unacceptable vegetation shall be defined in the plan.
- ii. Name, address, phone number, of contact person for the operator.



- iii. Name, address, phone number of landowner.
  - iv. Acreage and complete legal description of the subject property, on which the facility will be located, including all contiguous property owned by the landowners.
  - v. A narrative outlining the type of material to be excavated, mode of operation (including any screening, drying, and storage of material), estimated quantity of material to be extracted, and other pertinent information to explain the request in detail.
  - vi. Estimated time frame to operate facility, to include hours per day, days per week, months per year, number of years in operation.
  - vii. A description of all vehicles and equipment estimated to be used by the operator in the operation of the facility.
  - viii. A description of the estimated average daily and peak daily number of vehicles accessing the facility. If more than one access to the pit is proposed to the Mineral Extraction facility, provide a breakdown of anticipated average daily and peak number of vehicles using each access.
  - ix. Any other information or documentation required for issuance of a conditional/interim use permit under Article 4 of this Ordinance.
- b. Supporting Documentation. Every interim use permit application for a mineral extraction facility shall include submission of supporting documentation. The documentation must take into account the Performance Standards listed in this Article and may be presented in descriptive or map form. Supporting documentation shall include, but is not limited to, the following:
- i. A description of existing land uses on the subject property.
  - ii. A description of land use designations in the Comprehensive Plan and zoning classifications of the subject property.
  - iii. A description of the soil, vegetation, mineral content and topography of the subject property. A minimum of three (3) soil boring logs representative of the site and a description of the subsurface materials on the subject property must be submitted. A minimum of one boring log must be extended to fifteen (15) feet below the maximum depth of the proposed excavation on the site. Borings shall be located within areas proposed to be excavated.

- iv. A general description of surface waters, existing drainage patterns and groundwater conditions within one-half (1/2) mile of the subject property.
- v. A general description of the depth, quantity, quality and intended uses of the mineral deposits on the subject property.
- vi. Copies of all applicable state and federal application documents and operating permits, including but not limited to, MPCA permits, wetland permits (Minnesota Wetland Conservation Act and/or Corps. of Engineers), Historical and Archeological permits, Storm Water Permits, Mine Safety and Health Administration permits, and the required EAW for subject property over forty (40) acres.
- vii. A description of the site hydrology and drainage characteristics during extraction for each phase of mineral extraction including plans to control erosion, sedimentation and water quality of storm water runoff.
- viii. If there are any proposed changes to the existing drainage patterns, include proposed mitigation plans to control downstream off-site damage caused by any increase to the natural flow of water or any diversion of the existing natural flow of water.
- ix. A description of actions to be taken to mitigate potential impacts resulting from mineral extraction and processing, including potential impact related to: wetlands, erosion, noise, air pollution, surface water contamination, traffic, dust or vibrations.
- x. A description of site screening, landscaping, and security fencing.
- xi. A description of the method in which complaints about any aspect of the mineral extraction facility operation or off-site transportation are to be received and the method which complaints are to be resolved, such as neighbor notifications, meetings, or property value guarantees.
- xii. A plan for groundwater quality protection. The plan shall include a minimum of three (3) borings showing depth to groundwater (zones of seasonal saturation identified by the presence of reducing conditions [redoximorphic features]). If washing or processing are not proposed, and if groundwater (as described above) is not encountered at a depth of fifteen (15) feet below the bottom of the proposed pit floor, the applicant need not extend borings any further. If washing/processing operation is proposed a minimum of three (3) monitoring wells shall be installed to evaluate the hydro-geologic

environment. The Township Board reserves the right to require additional borings or monitoring wells if necessary.

- xiii. A minimum of three (3) cross-sections showing the extent of overburden, extent of mineral deposits, the water table (as described above), and any evidence of an historical water table (redoximorphic features).
  - xiv. Description of methods to control the weight of the vehicles leaving the pit and the methods to ensure vehicles do not travel on roads with weight limits lower than the weight of the vehicles.
  - xv. Description of methods to prevent mud and debris from being tracked onto public roads.
  - xvi. If a mineral extraction facility proposes to dewater the site, a plan must be submitted that includes:
    - 1. Dewatering points and their elevations;
    - 2. Hydro-geologic parameters of the unit dewatered including hydraulic conductivity, transmissivity, and storability;
    - 3. Proposed volume and rate of dewatering;
    - 4. Discharge point; and
    - 5. Duration of dewatering.
  - xvii. A contingency plan for responding to spills and berm/earthen dam failure, or accidental release of chemicals, process water, or tailings.
  - xviii. Description of site security and property boundary signage to be utilized at the facility.
  - xix. Map of the location of public schools, churches, campgrounds, nursing homes, and platted residential properties within one mile of the proposed mineral extraction facility's property lines.
  - xx. Description of local public monies or subsidies anticipated to be used in the establishment, operation, monitoring, or reclamation aspects of the proposal.
- c. Protection of Roads and Public Health, Safety and Welfare. The majority of the Township roads are of the type typically found in rural Minnesota. They are gravel and were not built to a sufficient width and carrying capacity to accommodate multiple hauling trips from heavy trucks on an on-going basis. Such hauling activities can seriously damage these roads and create significant safety hazards for the traveling public. Furthermore, the costs associated with repairing the damage caused to these roads by hauling activities places an undue burden on the Township taxpayers and

disproportionately draws upon the limited road and bridge funds the Township has available to it to keep Township's other roads properly maintained. In order to protect the public health, safety, and welfare, the Township will closely examine mineral extraction facility applications to determine whether the haul road(s) identified are adequate to safely accommodate the anticipated traffic from the facility. If the Planning Commission determines that an adequate haul road is not reasonably available to the proposed facility and is not otherwise provided for as part of the application, the Planning Commission shall recommend denial of the request.

- d. Additional Requirements for Underground Mining Extraction Facilities.
  - i. A description of the stability of lands overlaying the underground workings.
  - ii. Locations of ventilation shafts, and other surface openings.
  - iii. Detailed description of water handling procedures, including dewatering and processing water.
  - iv. A detailed description of the fate and transport of groundwater into and out of the mine workings.
  - v. Designs for mining under public roads require approval of the road authority.
  - vi. Mining or tunneling must maintain a 200 feet vertical extension setback from permanent surface structures.
- e. Permitting Procedure for Interim Use Permits
  - i. Application. A request for a mineral extraction conditional/interim use permit, as provided within this Ordinance, shall be filed with the Township on an official application form, the required application fee shall be paid, and a deposit made to reimburse the Township for its out-of-pocket costs in processing the application. The application shall also be accompanied by five (5) hard copies and one electronic copy of the detailed written and graphic materials fully explaining the proposed change, development, or use as specified in this Ordinance. If a Mining Technical Evaluation Panel report is required, it must accompany the application in order for the application to be considered complete.
  - ii. Notice. The Town Board shall notice a public hearing as specified in this Ordinance.

- iii. Additional Information. The Town Board shall have the authority to request additional information from the applicant or to retain expert testimony with the consent and at the expense of the applicant if said information is declared to be necessary by the Township to review the request or to establish performance conditions in relation to this Ordinance.
- iv. Referrals. The Town Board may refer the application for review and comment to other agencies including, but not limited to, the County, the Soil and Water Conservation District, the Minnesota Pollution Control Agency, or the Mining Technical Evaluation Panel. Such referrals will not stay the running of the period provided under Minnesota Statutes, section 15.99 for making a final decision on an application.
- v. Recommendation. The Planning Commission shall make findings of fact and recommend such actions or conditions relating to the request to the Town Board. The Town Board may impose such additional restrictions or conditions as deemed necessary to protect the public interest. These conditions may include, but are not limited to the following:
  - 1. Matters relating to the appearance of the Mineral Extraction Facility.
  - 2. Hours of operation.
  - 3. Increasing setbacks.
  - 4. Limiting the height, size or location of buildings and stockpiles.
  - 5. Controlling the location and number of vehicle access points.
  - 6. Improving a designated haul route to be used by increasing street width and weight carrying capacity required generally by said haul operations to the nearest adequate township or county road and improving access conditions, including turn lanes, bypass lanes, etc.
  - 7. Increasing the number of required off street parking spaces.
  - 8. Limiting the number, size, location, or lighting of signs.

9. Requiring diking, berm, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.
  10. Designating sites for open space.
  11. Delineating the area to be mined, total size and open area at any one time.
  12. Requiring phased reclamation.
  13. Requiring financial security to guarantee compliance with the conditions of approval.
  14. Water quality monitoring.
  15. On and off-site improvements to mitigate impacts caused by revisions to the natural flow of surface waters.
  16. Requiring conditions that would mitigate silica sand ambient air particles from leaving the facility property.
- vi. Town Board's Action and Findings. The Town Board shall approve, modify, or deny the request and state the findings of its actions. Approval of an Interim Use Permit shall require passage by majority vote of the full Town Board. The Town Board shall notify the applicant of the board's action. The interim use permit must identify the date or event on which the permit shall terminate.
  - vii. Reapplication for Interim Use Permit. The Town Board shall not accept reapplication for the same or substantially same interim use permit within six (6) months of denial.
  - viii. Revocation. An interim use permit issued to a mineral extraction facility may be revoked, after notice and a public hearing, if the operator violates any conditions imposed on the permit.
  - ix. Amended Interim Use Permit. Any change to the operations or use of the land approved under a current interim use permit shall require an amended interim use permit and all procedures shall apply as if a new permit were being issued.

Subp. 8.2.6. Application Requirements for Registration/Land Use Permits and Interim Use Permits.

- a. Security. The Town Board shall require the applicant or owner of the property on which the mineral extraction is occurring, to post a letter of

credit, bond, or cash escrow in such form and sum as determined by the Town Board as part of the permit. The security shall be sufficient to reimburse the following costs:

- i. Costs of bringing the operation into compliance with the interim use permit requirements including site monitoring and enforcement costs.
  - ii. The extraordinary cost of repairing roads due to the special burden resulting from the hauling of materials and traffic associated with the operation. The Township reserves the right to advertise for bids and to contract for any required road and infrastructure improvements made necessary by the granting of an interim use permit. The Applicant/Owner/Operator shall be responsible to pay for all costs of improvements to road infrastructure required under the granting of an interim use permit.
  - iii. Site restoration.
  - iv. Costs the Township may incur in enforcing the terms of the conditional use permit, and land use permit, including attorney's fees.
  - v. Bonds shall be for a minimum of one (1) year and shall include a provision for notification to the township at least thirty (30) days prior to cancellation or non-renewal.
- b. Annual Registration. Annual registration with the Township by all mineral extraction facilities issued an interim use permit is required. The purpose of the annual registration is to maintain an updated listing of active mineral extraction facilities in the Township, to decertify any permits where the activity has ceased, to monitor compliance with the conditions of approval and to review the applicability of the conditions and to review bonding requirements. Permit holders must complete and return registration forms provided by the township. Failure to maintain registration shall be cause for revocation of the permit. Other interim use permits issued by the Town Board may expire if there is no activity authorized under the permit within one (1) year of permit approval. Interim use permits and land use permits for mineral extraction facilities will not automatically expire because there is no activity as authorized within a year's time, provided the permittee complies with the annual registration requirement specified herein. Annual registration is done administratively by the Zoning Administrator and will not require a review by the Planning Commission or the Town Board provided all conditions are being met and the activity meets all standards as outlined in this Ordinance, other permits, Road Impact Agreements, and Development Agreements. For underground mineral extraction facilities, a

map prepared by a Minnesota Licensed Land Surveyor showing the property boundaries, the location, depth, size, and elevation of the tunnels and extent of the area mined must be submitted with the annual registration fee. Permit holders must show current proof of insurance coverage for the facility operations and property with each annual registration.

- c. Exposed Areas. Mining operations shall be conducted so active extraction operation of the mineral extraction facility exposes no more than fifteen (15) acres at any time, unless approved by the Town Board.
- d. Use Restrictions. The following uses are prohibited, unless specifically authorized in the interim use permit issued for the mineral extraction facility:
  - i. Hearthstones, paving stone and similar architectural or structural stone, and the storing or stockpiling of such products on the site.
  - ii. The manufacture of concrete building blocks or other similar blocks permanent ready-mixed concrete, or permanent asphalt production plants and any similar production or the production or manufacturing of veneer stone, sills, lintels, out flagstone, manufacturing processes.
  - iii. The use of flocculants, such as acrylamides, or any known chemical that is considered to be a Contaminant of Concern (COC) as defined by the Environmental Protection Agency, is prohibited from use in the washing or processing of the mineral resource.
- e. Waste Disposal. Any waste generated from the mining operation, including waste from vehicle or equipment maintenance, shall be disposed of in accordance with Federal, State, and County requirements.
- f. Mineral Extraction Facilities Performance Standards. The following performance standards apply to all mineral extraction facilities in the Township:
  - i. Hours of Operation. Mineral extraction facilities shall operate only between the hours of 6:00 a.m. and 10:00 p.m., Monday through Saturday unless specified otherwise in the interim use permit issued for the facility.
    - 1. Operators are allowed a maximum of five (5) one-day extensions to the hours of operation for evening work in a calendar year. Operators must notify the Township three working days in advance of the proposed extension.



2. Other exceptions to the hours of operation must be approved by the Town Board. Approval may only be granted in conjunction with the furnishing of material for a public improvement, public safety or a public good project, that is underway during hours that the mineral extraction facility is not otherwise allowed to operate. Approval will be limited to those functions that cannot occur during normal hours of operation.
- ii. Fencing. Fencing, signs, and barriers are required around ponding areas and steep sloped excavation areas unless, because of their location, they are not deemed to create a safety hazard.
  - iii. Access. The permittee must obtain a permit from the road authority for all proposed new access points to public roads. The road authority may restrict the weight of vehicles allowed to use any permitted access.
  - iv. Roadway Dust Control. Operators shall be responsible for providing continuous dust control during facility operation on gravel roads that are the primary routes to or from a mineral excavation facility. Unless waived by the Town Board in lieu of other remedies, watering roadways will be required when conditions warrant it and the number of one-way truck trips from a particular mineral excavation facility exceeds three (3) per hour. Other dust control measures along paved roads accessing the facility such as pavement sweeping and wheel washing may be required.
  - v. Mineral Extraction Facility Dust Control. To mitigate public nuisances and public health concerns the Town Board may require dust control in a mineral extraction facility when it is determined that airborne dust from extraction areas, processing activities, stockpiles or internal roadways creates a public nuisance. Other remedies to control dust may include berm and landscaping designed to minimize annoyance to persons living within one thousand (1,000) feet of the mining operations lot line. All internal roads and access roads from mining operations to public highways, roads, or streets or to adjoining property shall be paved or surfaced with gravel to minimize dust conditions.
  - vi. Noise. Maximum noise levels at the facility will be consistent with the standards established by the Minnesota Pollution Control Agency. To mitigate public nuisances, the facility shall use Township approved practices including building berms, enclosing generators, and leaving existing trees at the property boundaries to minimize noise impacts.

- vii. Vibration. Operators shall use all practical means to eliminate adverse impacts on adjacent properties from vibration of equipment according to all Federal and State laws, rules and statutes.
- viii. Air Quality/Water Quality. All activities on the mineral extraction facility will be conducted in a manner consistent with the MPCA's operating permits/standards.
- ix. Water Resources. The mineral extraction operation shall not allow surface water to leave the site in a manner that causes flooding, erosion, or alteration of natural drainage patterns. The mineral extraction operation shall not adversely affect the quantity and quality of surface or subsurface water. Surface water leaving the site shall be of equal quality as water originating off site before it passes through the site. The operator shall perform any water treatment necessary to comply with this provision.
- x. Screening. Screening barriers shall be subject to the approval of the Town Board.
  - 1. To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier may be required between the mining site and adjacent properties.
  - 2. A screening barrier may be required between the mineral extraction facility and any public road.
  - 3. A screening barrier may be required to mitigate visual impacts of the mineral extraction facility from existing historical, cultural, recreational features and dwellings, including but not limited to trails, navigable waters, and sites identified in the State Historic Preservation Office (SHPO) and County's cultural databases.
- xi. Unauthorized Storage. Vehicles, equipment, or materials not associated with the mineral extraction facility or not in operable condition may not be kept or stored at the facility.
- xii. Setbacks. The following minimum setbacks shall be maintained from property boundaries at the surface and their vertical extensions below the surface:
  - 1. One hundred (100) feet from adjoining property lines.
  - 2. One thousand (1000) feet from any existing dwelling or

permanent roof structure or platted residential subdivision.

3. One hundred (100) feet from the boundary of any zone where such operations are not permitted.
  4. All Silica Sand Mineral Extraction Facilities shall be setback a minimum of one mile from R1, Suburban Residential Zoning Districts, incorporated cities and campgrounds.
  5. One hundred (100) feet of any road right-of-way line of any existing or platted street, road, or highway, unless written consent by the adjacent road authority with jurisdiction over right-of-way and a copy submitted to the Township Board.
  6. The Town Board may increase the setbacks based upon residential locations, social or economic concerns, type of mining, or to mitigate public nuisance concerns.
- xiii. Phasing. Phasing plans must be prepared for all mineral extraction facilities. The proposed size of the extraction, processing, staging, and stockpiling operations are to be identified. Size of each operation may be limited by the permit approving authority.
- xiv. Weed Control. The operators shall be required to control noxious weeds and mow or harvest other vegetation to maintain reasonable appearance of the site.
- xv. Petroleum Product Handling. The Township requires safe and prudent petroleum product handling practices to meet or exceed the following standards:
1. Fuel Storage Tank Corrosion Protection.
    - a) Use of double-walled storage tank.
    - b) Have storage tank located within a dyke sufficient to hold the entire volume of the storage tank.
    - c) The dyke or berm to be constructed of impervious material and contain a manually operated drain to let out trapped rain water, and/or construct a roof to keep rain water out of berm area.
  2. Fuel Storage Tank Protection. Storage tanks will be protected from equipment by bumper posts built sufficient to withstand contact with the trucks and equipment used on the site. If the storage tank is mobile, and is parked on-site, it is subject to the same standards. The mobile storage tank

parking place will be protected by bumper posts or natural features sufficient to prevent accidental contact with equipment on all sides of the storage tank.

3. Equipment Refueling Procedures.

- a) Refueling of equipment will be done on an impervious surface such as a concrete slab in order to prevent any spillage permeating the ground surface and possibly impacting the ground water.
- b) In the event of spillage during refueling, floor-dry materials or kitty litter must be on hand to absorb any spilled fuel. This material must be disposed-of in accordance with standards for disposal of other waste petroleum products.
- c) Any spill or petroleum product release to the environment is subject to reporting to the MPCA.

xvi. Water Quality Monitoring. Water Quality monitoring shall be performed when required by the MPCA.

xvii. General Compliance. The operators must comply with all other federal, state, regional, county, and local laws and regulations applicable to the operation of the mineral extraction facility, including, but not limited to, floodplain management regulations, shoreland management regulations, and Zoning Ordinance regulations.

xviii. Additional Regulations. The Township may impose additional regulations and requirements to the mineral extraction facility to protect the public health, safety, and welfare.

xix. Land Reclamation. The reclamation plan is a crucial component of this Part and shall follow best practices and approved plans. It is expected that reclamation will be occurring in phases and completed in step with the opening of new excavation areas of the facility.

1. Land shaping. For sand and aggregate facilities, final grades may not exceed one (1) foot vertical to three (3) feet horizontal slope except for rehabilitated areas in existence at the time of adoption of this Ordinance. In completing final grading in each phase, the top of the slope may begin fifty (50) feet from property lines. Proposed topography shall fit in with regional topography and mirror landforms typical of Goodhue County.

2. Soil restoration, vegetation, and stabilization.
  - a) If the restoration plan includes areas intended for plant growth, topsoil depth shall be replaced within two (2) inches of the original undisturbed depth, with a minimum thickness of 4-6 inches. If the land use following reclamation is intended for row crop agricultural production, a minimum topsoil thickness may need to be increased.
  - b) Seeding and mulching shall be consistent with approved plans, permits and Best Practices. All right-of-way areas need to meet Minnesota Department of Transportation specifications. Areas returned to agricultural production [are exempt from the seeding and mulching requirements] need to be planted to a suitable cover crop to protect from erosion.
  - c) Soil restoration, seeding, and mulching must occur within each phase as soon as final grades, or interim grades identified in the phasing plans, have been reached.
  - d) Soil erosion and sedimentation control plans shall be submitted to the Township and be consistent with MPCA's General Storm Water Permit and NPDES/SDS permits.
  
3. Reclamation plan review. A comprehensive review of the reclamation plan is necessary to stay current with the progress of the facility, address issues, adjust financial securities, and incorporate current best practices. Reclamation plans may be required to be amended in order to address these concerns.
  - a) Reclamation plans will be reviewed after the first year of permitting, and as needed thereafter, yet no more than three years between the reviews.
  - b) Site visits may be required as part of the review and evaluation.
  - c) As-built surveys, soil borings, or other testing may be required as part of the review to ensure phased reclamation is completed according to the approved or amended reclamation plan.
  - d) Amended reclamation plans may need to be reviewed by the Mining Technical Evaluation Panel.
  - e) Amended reclamation plans must be approved by the Town Board, or may be approved administratively if

the changes are consistent with the overall final concept.

- f) All final grades and restoration must be consistent with the approved and amended reclamation plans.
- g) Within twelve (12) months after completion of mineral extraction or after termination of the permit, all equipment, vehicles, machinery, materials, and debris shall be removed from the subject property.
- h) Site reclamation must be completed within twelve (12) months after completion of mineral extraction, after termination of the permit, or according to an approved plan schedule. Failure to annually register the mineral extraction facility will be considered termination of the mineral extraction facility and the twelve (12) month period begins.
- i) Best Practices. In order to protect the environment and the public's health, safety and welfare, applications shall incorporate Best Practice standards into the design, operation, and reclamation of Mineral Extraction Facilities. A list of Best Management Practices for the Preservation and Restoration of Soil is available through the Minnesota DNR at: [https://www.dnr.state.mn.us/water\\_access/bmp/soil\\_retention\\_bmp.html](https://www.dnr.state.mn.us/water_access/bmp/soil_retention_bmp.html). The town board reserves the right to update the list as appropriate.

xx. Violations and Penalties.

1. Any firm, person or corporation who violates any of the provisions of these regulations shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine and/or imprisonment as provided by law. Each day that a violation is permitted to exist shall constitute a separate offense.
2. In the event of a violation or threatened violation of any of the terms of this Ordinance, the Township may take appropriate action to enforce this Ordinance, including drawing on the security provided for the operation, applying for injunctive relief, action to compel performance, or other appropriate action to court if necessary to prevent, restrain, correct or abate such violations or threatened violations. Upon motion, the court may award costs, disbursements and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the property.

3. Mineral Extraction Facilities may be required to enter into Road Impact and Development Agreements as conditions of their permit and registration.
4. Road Impact Studies and Agreements. When a proposed or amended Interim Use Permit is requested, the Town Board may require a Road Impact Study and a Road Impact Agreement to alleviate the additional burden on the Township's financial resources associated with the road infrastructure maintenance affected by granting the request.
5. Development Agreements. When a proposed or amended Interim Use Permit is requested, the Township may require a Development Agreement.

### **Part 8.3 Solar Energy Systems (SES).**

Subp. 8.3.1 Purpose. The purpose of this Part is to regulate the installation and operation of Solar Energy Systems (SES) in accordance with Part 2.2 of this Ordinance. This Part is compatible with, but more restrictive than, the Goodhue County Zoning Ordinance.

#### Subp. 8.3.2 Definitions.

- a. Grid-intertie SES. A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.
- b. Ground-mounted SES. A solar collector, or collectors, located on the surface of the ground. The collector or collectors may be physically affixed or attached to the ground; ground-mounted systems include pole-mounted systems.
  - i. Residential SES. Accessory to the primary use of the land, designed to supply energy for onsite residential use; excess energy produced may be sold back to the grid through net metering.
  - ii. Commercial SES. Accessory to a permitted farm or business use of the land, designed to generate energy to offset utility costs or as an additional revenue stream.
  - iii. Utility Scale SES. An energy system that is the primary use of the land, designed to provide energy primarily to off-site uses or export to the wholesale market. Utility scale systems are not permitted under this Ordinance.
- c. Off-grid SES. A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by electric utility company.
- d. Photovoltaic SES. An active solar energy system that converts solar energy directly into electricity.
- e. Roof-mounted SES. A solar collector, or collectors, located on the roof of the building or structure. The collector or collectors may be physically affixed, or attached to the roof.



- i. Residential SES. Accessory to the primary use of the land, designed to supply energy for onsite residential use; excess energy produced may be sold back to the grid through net metering.
- f. Commercial SES. Accessory to a permitted farm or business use of the land, designed to generate energy to offset utility costs or as an additional revenue stream.
- g. Utility Scale SES. An energy system that is the primary use of the land, designed to provide energy primarily to off-site uses or export to the wholesale market. Utility scale systems are not permitted under this Ordinance.
- h. Solar Cell. The basic unit of a photovoltaic solar panel.
- i. Solar Collector. A device, structure, or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.
- j. Solar Easement. A right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or solar skyspace for the purpose of ensuring adequate exposure of a solar energy system as defined in Section 216C.06, Subdivision 17, to solar energy. Required contents of a Solar Easement are defined in Minnesota Statute Section 500.30.
- k. Solar Energy. Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
- l. Solar Energy System (SES). A device set of devices, or structural design feature, a substantial purpose of which is to provide for the collection, storage and distribution of sunlight for space heating or cooling, generation of electricity, water heating, or providing daylight for interior lighting.
- m. Substation. Any electrical facility containing power conversion equipment designed for interconnection with power lines. Part of the electrical transmission system converting high voltage to low voltage or converting low voltage to high voltage for incorporation into the electrical power grid.

Subp. 8.3.3 General Procedures.

- a. Approval Required. All solar energy systems greater than 2000 watt capacity shall require a building permit and/or a conditional use permit under Chapter VI of this Ordinance.
  - i. Residential Rooftop and Ground Mounted Solar Energy Systems may be approved through a building permit.
  - ii. Commercial Rooftop and Ground Solar Energy Systems may be approved through a Conditional/Interim Use Permit.

Subp. 8.3.4. Solar Energy System Standards.

- a. General Standards
  - i. Systems shall be designed and operated in a manner that protects public safety.
  - ii. Systems shall be in compliance with any applicable local, state and federal regulatory standards, including, but not limited to, the State of Minnesota Uniform Building Code, as amended, and the National Electric Code, as amended.
  - iii. Tree removal shall be minimized.
  - iv. No system shall be constructed on productive farmland.

Subp. 8.3.5 Application for Solar Energy Systems. An application to the Town Board for a permit under this Part shall contain the following information, including but not limited to the following:

- a. Application Submittal Requirements for Solar Energy Systems:
  - i. A site plan of existing and proposed conditions as defined in Goodhue County Article 10, Section 2, Subd. 95.
  - ii. Number of Solar Collectors to be installed.
  - iii. Location and spacing of solar panels.
  - iv. Property owner name, address, and parcel identification numbers associated with the project.
  - v. Ground mounted system applications shall identify existing vegetation on installation site (list type and percent of coverage; i.e. grassland, wooded areas, etc.), and provide a maintenance plan for controlling vegetative growth on site upon installation of the SES.

- vi. Planned location of underground or overhead electric lines connecting the SES to the building, substation or other electric load.
- vii. All provisions of Goodhue County Floodplain Regulations must be met.
- viii. Projects must comply with Minnesota Statutes for Protection of Water Resources, Minnesota Shoreland Management Act, and Minnesota Wetland Conservation Act.

Subp. 8.3.6. Permitted Uses and Conditional Uses for Solar Systems.

Solar Energy Systems will be permitted, conditionally permitted, or not permitted based on the generating capacity and land use district as established in the table below:

District	Utility Scale Energy Systems	Commercial Scale Energy Systems	Residential Scale Energy Systems
Agriculture Protection (A-1)	NP	C	P
Agriculture (A-2)	NP	C	P
Suburban Residence (R-1)	NP	NP	P
Wetlands (W)	NP	NP	NP

(P=Permitted, C=Conditionally Permitted, NP=Not Permitted)

**Part 8.4 Wind Energy Conversion Systems (WECS).**

Subp. 8.3.1 Purpose. The purpose of this Part is to regulate the installation and operation of Wind Energy Conversion Systems (WECS) that have a total nameplate capacity of 1 Megawatts or less (Small Wind Energy Conversion Systems) and are not otherwise subject to siting an oversight by the State of Minnesota pursuant to Minnesota Statutes, Chapter 216F, Wind Energy Conversion Systems, as amended and in accordance with Part 2.2 of this Ordinance. This Part is compatible with, but more restrictive than, the Goodhue County Zoning Ordinance.

Subp. 8.4.2 Definitions.

- a. Airfoil. A part such as a blade, with a flat or curved surface, designed to provide a desired reaction.

- b. Azimuth. A horizontal angle measured clockwise in degrees with 00° 00' 00" being the north reference point.
- c. Aggregated Project. Aggregated projects are those which are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.
- d. C-BED Project. As defined in Minnesota Statutes, section 216B.1612, as amended. Based on the total name plate generating capacity, C-BED Projects are considered to be (1) Micro-WECS, (2) Non-Commercial WECS or (3) Commercial WECS as defined in this Section.
- e. Commercial WECS. A WECS of 1 megawatt to 5 megawatts in total name plate generating capacity.
- f. Comprehensive Plan. Comprehensive Plan means the policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community facilities including recommendations for plan execution, documented in texts, ordinances and maps which constitute the guide for future development of the unincorporated area of the County.
- g. Decibel. A unit of measure of sound pressure.
- h. dB (A), A-Weighted Sound Level. A measure of over-all sound pressure level in decibels, designed to reflect the response of the human ear.
- i. Fall Zone. The area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.
- j. Feeder Line. Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the WECS.

- k. Generator Nameplate Capacity. The maximum rated output of electrical power production of a generator under specific conditions designated by the manufacturer with a name plate physically attached to the generator.
- l. Hub Height. The distance from the ground to the center axis of the turbine rotor.
- m. Large Wind Energy Conversion System or LWECS. Any combination of WECS with a combined nameplate capacity of 5,000 kilowatts or more.
- n. Meteorological Tower. For the purposes of this Wind Energy Conversation System Ordinance, meteorological towers are those towers which are erected primarily to measure wind speed and directions plus other data relevant to siting WECS. Meteorological towers do not include towers and equipment used by airports, the Minnesota Department of Transportation, or other similar applications to monitor weather conditions.
- o. Micro-WECS. Micro-WECS are WECS of 1 kilowatt nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.
- p. Nacelle. Contains the key components of the wind turbine, including the gearbox, yaw system, and electrical generator.
- q. Non-commercial WECS. A WECS of less than 1 megawatt in total name plate generating Capacity and 225 feet in total height or less.
- r. Non-prevailing Wind. The non-dominant wind direction in Goodhue County.
- s. Power Purchase Agreement. A legally enforceable agreement between two or more persons where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase of power.
- t. Preliminary Acoustic Study. A study certifying the WECS will be in compliance with State of Minnesota Noise Standards.
- u. Prevailing Wind. The predominant wind direction in Goodhue County.
- v. Project. A WECS or combination of WECS.

- w. Project Boundary. The boundary line of the area over which the entity applying for a WECS permit has legal control for purposes of installation of a WECS. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.
- x. Project Owner. An individual or entity with legal ownership of WECS project.
- y. Public Conservation Lands. Land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, federal Wildlife Refuges and Waterfowl Production Areas. For the purposes of this section public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
- z. Qualified Independent Acoustical Consultant. A person with Full Membership in the Institute of Noise Control Engineers/INCE, or other demonstrated acoustical engineering certification. The Independent Qualified Acoustical Consultant can have no financial or other connection to a WECS developer or related company.
- aa. Rotor. A system of airfoils connected to a hub that rotates around an axis.
- bb. Rotor Blades. See Airfoil.
- cc. Rotor diameter (RD). The diameter of the circle described by the moving rotor blades.
- dd. Small Wind Energy Conversion System or SWECS. Any combination of WECS with a combined nameplate capacity of less than 5,000 kilowatts.
- ee. Substations. Any electrical facility designed to convert electricity produced by wind turbines to a voltage greater than 35,000 volts (35 kilovolts) for interconnection with high voltage transmission lines shall be located outside of the road right of way.

- ff. Total Height. The highest point, above ground level, reached by a rotor tip or any other part of the WECS.
- gg. Total Name Plate Capacity. The total of the maximum rated output of the electrical power production equipment for a WECS project.
- hh. Tower. Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.
- ii. Tower Height. The total height of the WECS exclusive of the rotor blades.
- jj. Transmission Line. Those electrical power lines that carry voltages of at least 69,000 volts (69 kilovolts) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
- kk. WECS. Any device such as a wind charger, windmill, or wind turbine and associated facilities that converts wind energy to electrical energy.
- ll. Wind Turbine. A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

Subd. 8.4.3 General Procedures.

- a. All WECS require a building permit and/or a conditional use permit under Chapter VI of this Ordinance.
  - i. Utility scale WECS above 1 megawatt are not permitted.
  - ii. No system shall be constructed on productive farmland.
- b. The application for WECS in Warsaw Township shall include the following information:
  - i. Property owner name, address, and parcel identification numbers associated with the project.

- ii. Project description including: type of tower, tower height; if applicable name plate generating capacity, rotor diameter, and total structure height to include blades.
- iii. A site plan drawn to scale showing existing structures including but not limited to: buildings & other communication towers.

Subp. 8.4.4 District Regulations. WECS will be permitted, conditionally permitted or not permitted based on the generating capacity and land use district as established in the table below:

District	Non-Commercial Micro WECS	Non-Commercial	Meteorological Tower	Number Permitted (Each Property)
Agriculture Protection (A-1)	P	C	P	1
Agriculture (A-2)	P	C	P	1
Suburban Residence (R-1)	P	C	P	1

(P=Permitted, C=Conditionally Permitted)



Subp. 8.4.5 Required Setbacks.

Setbacks	Wind Turbine Non-Commercial Micro WECS	Wind Turbine Non-Commercial WECS	Meteorological Towers
Property Lines	1.1 times the total height or in A-1 and A-2 Districts only the distance of the fall zone as certified by a professional engineer plus 10 feet.	1.1 times the total height or in A-1 and A-2 Districts only the distance of the fall zone as certified by a professional engineer plus 10 feet.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height
Neighboring Dwellings	750 feet This setback requirement may be reduced by the Zoning Administrator subject to maintaining adequate health and safety requirements.	750 feet	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.

Subp. 8.4.6 Requirements and Standards.

a. Safety Design Standards.

- i. Engineering Certification. For all WECS, a Minnesota licensed engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
- ii. Clearance. Rotor blades or airfoils must maintain at least 12 feet of clearance between their lowest point and the ground.
- b. Total height. Non-Commercial WECS shall have a total height of 225 feet or less.
- c. Meteorological towers may be guyed.
- d. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for

night-time illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided. Exceptions may be made for metrological towers, where concerns exist relative to aerial spray applicators.

Subp. 8.4.7 Other Applicable Standards.

- i. Noise. All WECS shall comply with State of Minnesota Noise Standards.
- ii. Electrical codes and standards. All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.
- iii. All WECS shall comply with all applicable laws, rules, regulations, codes, and ordinances.

## CHAPTER IX NUISANCES

**Part 9.1.** The following shall constitute a public nuisance and are prohibited by this Ordinance.

- A. Waste. Failure to properly store and dispose of waste in a manner which does not unreasonably threaten public health or safety.
- B. Stockpiles. The stockpiling or depositing of animal manure, pea vines, silage or other similar substances or materials in a way which does not adequately prevent drainage or seepage therefrom into any streams, waterway, public right-of-way or easement, or over adjoining land.
- C. Drainage of Unwholesome Materials. To cause or to permit the drainage of seepage of any unwholesome or unsavory liquid material into any stream, waterway, or highway or unto adjoining lands, is hereby prohibited.
- D. Damage to Township Roads. To intentionally, by an affirmative act or failure to take reasonable care, damage any portion of a Township right-of-way, or to use Township roads for any use which is prohibited, or any conditional or interim use for which a permit has not been issued by the Town Board.
- E. Township Road Ditches. To alter, excavate, fill in, or otherwise obstruct or damage any Township road ditch except upon issuance of a permit by the Town Board.

**CHAPTER X  
FEES, PENALTIES, AND ENFORCEMENT**

**Part 10.1. Fees.**

Subp. 10.1.1. Application and Administrative Fees. Any person submitting an application under this Ordinance shall pay the applicable application fee as established by the Town Board. The person shall also pay an administrative fee deposit in the amount determined by the Town Board and may be required to sign an agreement on a form provided by the Township agreeing to reimburse the Township for its costs, including all engineering, planning, legal, administrative and inspection expenses, incurred by the Township in processing the application. Payment of the application fee, payment of the administrative fee deposit, and execution of the reimbursement agreement, if required, must be received by the Township prior to an application being considered filed, complete, and subject to processing.

Subp. 10.1.2. Deduct Expenses. As the Township processes the application, the Town Clerk shall deduct the expenses incurred by the Township from the administrative fee deposit. If the Town Clerk determines, after consulting with the Zoning Administrator, the deposit will not be sufficient to fully reimburse the Township for its expenses, the Zoning Administrator shall require the applicant to make a supplemental deposit in an amount deemed necessary to reimburse the Township for all of its expenses. If the applicant fails to submit the supplemental deposit within a reasonable time, the Township may suspend processing the application until the deficiency is corrected or deny the application.

Subp. 10.1.3. Full Reimbursement of Expenses Required. Upon the termination of the application, by approval, denial, withdrawal, or any other means, all expenses incurred by the Township shall be immediately payable by the applicant. Any deposit in excess of the Township's expenses shall be refunded to the applicant without interest. No permits shall be issued, no construction or development shall commence, and no use of the property shall be made until all fees are paid in full. In the event that payment of expenses is not made within a reasonable time after demand, the Town Board or Zoning Administrator may file a lien upon the subject property or other property of the applicant pursuant to Minnesota Statutes, section 514.67, certify costs against the property as an unpaid service charge pursuant to Minnesota Statutes, section 366.012, or take such other action as may be deemed appropriate to obtain full reimbursement the Township's expenses, including the costs of collection.

**Part 10.2 Penalty.** Any person, firm or corporation who violates any of the provisions of this Ordinance, or who fails, neglects or refuses to comply with the provisions of this Ordinance (including violations of conditions and safeguards established in connection with the granting of variances and conditional and interim use permits or failures to comply with abatement orders), or who knowingly makes any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not to exceed \$1,000 or by

imprisonment not to exceed 90 days or both. Each day that a violation continues shall constitute a separate offense.

**Part 10.3 Enforcement.** In the event of a violation or a threatened violation of this Ordinance, the Town Board, in addition to other remedies, may institute appropriate civil actions or proceedings to prevent, prosecute, restore, restrain, correct or abate such violations or threatened violations. The Town Board, Zoning Administrator or Town Clerk, and Town Attorney are authorized to provide notices and orders as part of enforcing this Ordinance. These notices and orders may include, but are not limited to, violation notices, cease and desist orders, stop work orders, and corrective orders.

**Part 10.4 Complaint Process.** Consistent with other small communities, the Township utilizes a complaint-based process for enforcing this Ordinance. A complaint may be initiated by a resident, the Zoning Administrator, or the Town Board. The Township will generally use the following process to consider and act on complaints, but it is not the exclusive process as there may be cases where a different or expedited enforcement process is warranted under the facts of a particular situation. Nothing in this part shall limit the Township's ability to take any action available to it under law to enforce this Ordinance.

- a. A complaint must be directed to the Town Clerk. The Town Clerk shall forward the complaint to the Town Board for consideration together with any additional information or reports the Town Clerk or Zoning Administrator determines will be helpful to the Town Board to consider the complaint.
- b. The Town Board shall review the complaint and determine whether a violation has occurred. Before making its decision, the Town Board may refer the matter to the Zoning Administrator to conduct an inspection and provided additional information, or to the Town Attorney for a legal opinion on the situation. The Town Board may also invite the property owner that is the subject of the complaint to speak to it.
- c. If the Town Board determines a violation has occurred, it may direct the Zoning Administrator or Town Attorney to send a notice of violation, stop work order, cease and desist notice, or any other appropriate notice to inform the property owner of the violation, what must be done to correct it, and provide a timeline by which the violation must be corrected.
- d. If the property owner fails to correct the violation as directed in the notice, the Town Board may direct one or more additional notices be sent or may authorize the Town Attorney to institute an enforcement action to require the property be brought into compliance.

## CHAPTER XI DEFINITIONS

**Part 11.1. Definitions.** Article 10, Section 2 of the County Ordinance is hereby adopted by reference and is incorporated herein with the following additions and/or exceptions:

Subp. 11.1.1 Practical Difficulties. As used in connection with granting a variance, practical difficulties means that 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 owners of the property since enactment of this Ordinance have had no control; the property owner proposes to use the property in a reasonable manner that is permitted by the Ordinance but does not comply with some of the requirements of the Ordinance; the plight of the property owner is due to circumstances unique to the property and not created by the property owner; and the variance, if granted, would not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

Subp. 11.1.2. Special Event Uses. Special Event Uses are activities using land, structures, or buildings held open to the general public, or select members of the public, to conduct or participate in educational programs or celebrations including, but not limited to, weddings, receptions, graduations, and community, business, religious, or historic events regardless of whether a fee is charged for use of the land, structure, or building. This term also includes Educational Farm Retreats and Agricultural Tourism.

Subp. 11.1.3. Definitions in this Ordinance. Any definitions stated in this Ordinance shall control to the extent inconsistent with the County Ordinance.

## CHAPTER XII MISCELLANEOUS PROVISIONS

**Part 12.1. Applications.** All applications submitted to the Township must be on forms developed by the Township and approved by the Town Board. Any application that is not on an approved form, is not accompanied by the required fees, or is not complete, shall not be accepted or processed by the Township.

**Part 12.2. Authorization.** The Zoning Administrator, Town Clerk, or such other person appointed by the Town Board to receive and process applications under this Ordinance, is authorized and delegated the authority to make all determinations with respect to the completeness of applications governed by Minnesota Statutes, section 15.99, to determine whether additional time is needed for the Township to review applications governed by Minnesota Statutes, section 15.99, and to provide applicants written notices required under Minnesota Statutes, section 15.99 related to application completeness or extensions of review periods.

**Part 12.3. Severability.** It is hereby declared to be the intention of the Town Board that the several provisions of this Ordinance are separable. If any part of this Ordinance is held by a court of competent jurisdiction to be unconstitutional, unenforceable, or otherwise invalid, the remainder of this Ordinance shall be deemed and held to be valid and remain in effect as if such portion had not been included herein. If this Ordinance or any provision herein is held to be inapplicable to a particular person, property, use, structure, building or work, such holding shall not affect the applicability of this Ordinance to any other person, property, use, structure, building or work.

**Part 12.4. Repealer.** This Ordinance supersedes and replaces in its entirety Warsaw Township Ordinance No. 6, as presently enacted, and all other Warsaw Township Zoning and Building Ordinances. The repeal of the previous ordinances does not, itself, affect the nonconforming status of any use or structure that remains out of compliance with the provisions of this Ordinance.

**Part 12.5. Effective Date.** This Ordinance shall take effect and be in full force on the first day of publication after its passage.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2022.

**TOWN BOARD  
OF WARSAW TOWNSHIP**

By

\_\_\_\_\_  
Its Chairperson

Attest:

\_\_\_\_\_  
Clerk

**EXHIBIT A**

**Warsaw Township Zoning Map**