

## SECTION 18 - ADMINISTRATION AND ENFORCEMENT

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### **Subdivision 1: Building Official**

1. The office of the Building Official is hereby established, for which the Board of County Commissioners may appoint such employee or employees of the County as it may deem proper.
2. The duties of the Building Official shall include the following:
  - A. Act as head Building Inspector for the County
  - B. Assist the Zoning Administrator with enforcing and administering this Ordinance
  - C. Issue Building Permits and Certificates of Occupancy and maintain records thereof
  - D. Inspect all construction to insure that the standards of this Ordinance are being complied with
3. When any work shall have been stopped by the Building Official for any reason whatsoever, it shall not again be resumed until the reason for the work stoppage has been completely removed.

**Subdivision 2: Zoning Administrator**

1. The office of the Zoning Administrator is hereby established for which the Board of County Commissioners may appoint such employee or employees of the County as it may deem proper.
2. The duties of the Zoning Administrator shall include the following:
  - A. Receive and forward to the Board of County Commissioners and the County Planning Commission all applications for Conditional Use Permits
  - B. Receive and forward all applications and petitions for matters to come before the Board of Adjustment
  - C. Receive and forward to the Board of County Commissioners and the County Planning Commission all applications for amendments to this Ordinance
  - D. Inspect all development to insure that the standards of this Ordinance are being complied with
  - E. Provide and maintain a public information bureau relative to matters arising out of this Ordinance, and
  - F. Maintain the County Zoning Map
3. It shall be the duty of the Zoning Administrator to enforce this Ordinance through the proper legal channels.
4. It shall be the duty of the County Attorney and the Sheriff of Sherburne County when called upon by the Zoning Administrator, to perform such duties as may be necessary to enforce the provisions of this Ordinance.

**Subdivision 3: Board of Adjustment**

1. **Creation and Membership:** Board is hereby established and vested with such authority as is hereinafter provided and provided by Minnesota Statutes, Chapter 394. Such Board shall consist of at least five (5) members of which at least two (2) are members of the County Planning Commission, excluding any elected officer of the County or employees of the Board of County Commissioners. The Board shall be appointed for three (3) year terms. The Board shall appoint a secretary and an alternate from the Planning and Zoning Department.

2. **Chair and Rules:** The Board of Adjustment shall elect a chair and vice chair from among its members. It shall adopt rules at the beginning of each year for the transaction of its business and shall keep a public record of its transactions, findings and determinations.
3. **Meetings:** The meetings of the Board of Adjustment shall be held at the call of the chair and at such other times as the Board in its rules of procedure may specify. The applicant or their agent must be present at the public hearing at which their application is considered, or action on the application will be tabled unless waived by the Board of Adjustment. If the applicant is not present at the meeting and has not waived their rights under Minnesota Statutes §15.99 in writing, the Board must take action.
4. **Notification:** Written notice of time, place and purpose of the public hearings shall be published in the official newspaper, designated by the County Board of Commissioners. Notices will be sent to the landowner, applicant, and owners of record within the distances specified in Minnesota Statute 394.
5. **Variances:** An application for a variance shall be made through the County Zoning Administrator.

Unless there has been a substantial change in circumstances, applications for the same purpose shall not be heard for one year after the date of denial. Variances are valid only if acted upon by the applicant within one (1) year of approval.

The Board of Adjustment shall have power to grant a variance adjustment in and exception to dimensional regulations of this Ordinance to the extent of the following and no further;

- A. To vary or modify the strict application of any of the regulations or provisions contained in this Ordinance in cases in which there are practical difficulties or unnecessary hardships in the way of such strict applications; no variance or modification of the uses permitted within a district shall be allowed, except as otherwise provided in this Ordinance.

"Hardship" means that the property in question cannot be put to a reasonable use if used under the conditions allowed by this ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner, and a variance will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this ordinance.

Variations shall not be granted if:

- 1) The terms of the variance are inconsistent with the *Sherburne County Comprehensive Plan*.
- 2) The request would not be in harmony and character to the surrounding neighborhood.
- 3) The use is prohibited in the zoning district in which the subject property is located.
- 4) The use would restrict the passage of stormwater in such a manner as to increase the height of flooding and / or negatively impact adjacent properties.

The Board may have full discretion to require additional information as needed to make a decision on a variance, and may impose conditions in the granting of the variance to insure compliance and to protect adjacent properties and the public interest.

- B. To interpret zoning district boundaries on official zoning maps.
- C. To permit the extension of a zoning district where the boundary line thereof divides a lot in on ownership at the time of the passage of this Ordinance, but such extension of any district shall not exceed one hundred (100) feet.

**6. Appeals:**

- A. An appeal from any order, requirement, decision, or determination of any administrative official charged with enforcing this ordinance shall be perfected within ten days (10) of the administrative official's decision by filing with the Board of Adjustment notice of appeal specifying the grounds thereof. The Board of Adjustment shall then fix a reasonable time for the hearing of the appeal and give notice thereof to the appellate and the officer from whom the appeal is taken and to the public by publishing a notice of the hearing once in the official newspaper of the County at least ten (10) days before the date set for the hearing. The Board of Adjustment shall thereupon make a decision upon the notice of appeal in writing within fifteen (15) days of the public hearing.

The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and to that end shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit. An appeal stays all proceedings in furtherance of the action appealed from unless the Board of Adjustment certifies that by reason of the facts stated in the certificate a stay would cause imminent peril to life or property.

All decisions by the Board of Adjustment in granting variances or in hearing appeals from any administrative order, requirement, decision, or determination shall be final except that any aggrieved person or persons, or any department, board or commission of the jurisdiction or of the State shall have the right to appeal within thirty (30) days, after receipt of notice of the decision, to District Court in the county in which the land is located on questions of law and fact.

**7. Incomplete Applications:**

- A. Incomplete applications shall be considered denied one (1) year from the date of the application if the proposal has not obtained the required approvals. The Zoning Administrator may grant one 6-month extension if the Zoning Administrator determines that continuous progress has been made to keep the application moving toward approval.
- B. An application shall be considered incomplete if Township comments have not been submitted to the County (if the Township wishes to comment).

**Subdivision 4: Amendments and Rezonings**

- 1. Application:** This Ordinance or the Official Zoning Map may be amended whenever the public necessity and the general welfare require such amendment by following the procedure specified in this Section. Amendments to the boundaries of a zoning district on the Official Zoning Map are known as "rezonings."

Proceedings for amendment of this Ordinance shall be initiated by:

- A. A petition of the owner or owners of the actual Property, or
  - B. A recommendation of the County Planning Commission, or
  - C. By action of the Board of County Commissioners
- 2. Filing:** An application for an amendment or rezoning shall be filed with the Zoning Administrator. All applications for rezonings that are initiated by the petition of the owner or owners of property, the zoning of which is proposed to be changed, shall be accomplished by a map or plat showing the lands proposed to be changed and all land within one half (1/2) mile of the boundaries of the property proposed to be rezoned, together with the names and addresses of the owners of the lands in such area as the same appears on the records of Sherburne County. *Unless there has been a substantial change in circumstances, applications for the same purpose shall not be heard for one year after the date of denial.*

3. **Notification of Proposed Rezoning:** The notification of public hearings shall conform to Minn. Statutes 394.2620 as amended.
4. **Public Hearing:** Upon receipt in proper form of the application and other requested material, the Sherburne County Planning Commission shall hold at least one (1) public hearing in a location to be prescribed by the Planning Commission. At least ten (10) days in advance of each hearing, notice of the time and place of such hearing shall be published in the official newspaper of the County.
5. **Consideration:** Following the public hearing, the County Planning Commission shall make a report of its consideration and recommendations on the proposed amendment and shall file a copy with the Board of County Commissioners and the Zoning Administrator. Consideration of a rezoning request shall include without limitation, the following:
  - A. Is the proposed rezoning consistent with the Comprehensive Plan?
  - B. Is the current use of the property a permitted use within the proposed zoning district, or will the rezoning create a non-conforming use?
  - C. Will permitted uses within the proposed zoning district be injurious to health or interfere with the comfortable enjoyment of life or property within the vicinity?
  - D. How will public services (e.g. transportation, schools, parks, and police/fire) be impacted by the proposed rezoning? Will permitted uses within the proposed zoning district adversely impact or overburden existing public service capacity?
  - E. Is the proposed rezoning located in an area that has the potential to adversely impact natural resources such as surface water, groundwater, or wetlands, or sites identified for rare biological species habitat?
  - F. Does the proposed rezoning have the potential to impact ecologically sensitive or historically significant areas?
  - G. Does the property have sufficient size and physical characteristics to permit a reasonable use under the current zoning district?
  - H. Any other factors that may be relevant to determining whether the proposed rezoning is appropriate.
6. **Fees:** To defray the administrative cost of processing of requests for an amendment to this Ordinance, a fee not exceeding administrative costs shall be paid by the petitioner. Such a fee shall be determined by the Board of County Commissioners.
7. **Submission Requirements:**
  - A. Township Comments
  - B. Vicinity Map
  - C. Legal Description
  - D. A detailed statement providing the applicant's reason for the request

**Subdivision 5: Conditional Use Permits**

**1. Application:**

Conditional Use Permits (CUP) may be issued for any and only the uses or purposes for which such permits are required or permitted by provisions of this Ordinance. Unless there has been a substantial change in circumstances, applications for the same purpose shall not be heard for one year after the date of denial.

An application for a Conditional Use Permit shall be filed with the Zoning Administrator on a form prescribed by the Board of County Commissioners. The applicant shall provide the following written information in order for a CUP application to be complete:

- A. A complete CUP application form signed and dated by the applicant and property owner(s) and pay all applicable fees
- B. Written description of the activities
- C. Written description of the type and number of vehicles (motorized and non-motorized, such as trailers), heavy machinery and equipment to be used on the property
- D. Days and hours of operation
- E. Number of employees using the property, including sub-contractors (full-time and part-time)
- F. Site plan, including:
  - I. A survey or aerial photograph showing all existing and proposed buildings, well, septic system (or other restroom facilities), outside storage area(s), driveway access(s), and any public or private easements
  - II. Existing and proposed screening (if required). Screening may consist of coniferous trees not less than 6' in height, planted not less than 8' apart and/or a non-transparent fence not less than 6' in height
  - III. Existing and proposed signage, including a dimensional diagram of proposed signage
- G. A Certificate of Septic Compliance. If the septic system is older than ten (10) years and has not had a passing septic compliance check within the past ten (10) years, A septic compliance check must be completed. If the septic system is not in compliance with state regulations, the septic system must be upgraded before

the Planning & Zoning Department will consider a CUP application to be complete.

- H. Written description of any maintenance to take place on-site, including how hazardous materials will be stored and disposed of
- I. A certificate of insurance
- J. Wetland Impact approval (if applicable)
- K. A completed Comment Form by the applicable Town Board
- L. Any additional information required by the Zoning Administrator specific to the CUP request

**2. Notification and Public Hearing:**

The notification for public hearings shall conform to Minn. Statutes 394.2620 as amended.

**3. Findings:**

No Conditional Use Permit shall be approved or recommended for approval by the County Planning Commission unless said Commission shall find:

- 1. That the Conditional 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 and impair property values within the immediate vicinity.
- 2. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
- 3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
- 4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
- 5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.



4. **Report to the County Board:**

For each application for a Conditional Use Permit where applicable, the County Planning Commission shall report to the Board of County Commissioners its finding and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. Upon receipt of the report of the Planning Commission, the Board of Commissioners *may* hold a public hearing and shall make a decision upon the proposal to grant or deny a Conditional Use Permit.

5. **Fees:**

The applicant shall pay all CUP and recording fees as determined by the County Board in the Fee Ordinance. All fees are considered the minimum amounts necessary to reimburse the County for costs incurred in processing the application and investigating the application and the proposed premises and are, therefore, non-refundable. As a condition of approval of the CUP, the County Board may require an additional annual Inspection Fee as stated in the Fee Ordinance. The Annual Inspection Fee shall cover the cost of County Staff or their agent to inspect the property as required within the CUP's conditions of approval.

6. **Compliance:**

Any use permitted under the terms of any Conditional Use Permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith. *If the applicant does not abide by the conditions set forth in the permit, the County has the right to either revoke the permit or hold another hearing to investigate and set additional conditions.*

7. **Incomplete Applications:**

- A) Incomplete applications shall be considered denied one (1) year from the date of the application if the proposal has not obtained the required approvals. The Zoning Administrator may grant one 6-month extension if the Zoning Administrator determines that continuous progress has been made to keep the application moving toward approval.
- B) An application shall be considered incomplete if Township comments have not been submitted to the County.

**Subdivision 6: Interim Use Permits**

**1. Transferability:**

Any Interim Use Permit (IUP) issued under this Ordinance is granted solely to the applicant and the business entity named in the application, and for the premises named in the IUP application. No IUP of any sort granted pursuant to this Ordinance is transferable to any other person or premises. If a change of ownership, control, or location of any licensed premises occurs, whether pursuant to move, sale, transfer, assignment, or otherwise, the owner or proposed new owner must complete a new application subject to approval pursuant to this Ordinance. A change of ownership or control includes, but is not limited to:

- A. The sale of all or substantially all of the company assets
- B. Sale or acquisition of forty (40) percent or more of the controlling interest (voting) stock if the company stock is publicly traded
- C. Sale of fifty-one (51) percent of the voting stock if a non-publicly traded stock or closely held corporation
- D. Execution of a management agreement, or
- E. The change of any officer or majority stockholder if the company is a closely-held corporation.

**2. Application:**

Unless there has been a substantial change in circumstances, applications for the same purpose shall not be heard for one year after the date of denial.

An application for an Interim Use Permit shall be filed with the Zoning Administrator on a form prescribed by the Board of County Commissioners. The applicant shall provide the following written information in order for a IUP application to be complete:

- A. A complete IUP application form signed and dated by the applicant and property owner(s) and pay all applicable fees
- B. Written description of the activities
- C. Written description of the type and number of vehicles (motorized and non-motorized, such as trailers), heavy machinery and equipment to be used on the property

- D. Days and hours of operation
- E. Number of employees using the property, including sub-contractors (full-time and part-time)
- F. Site plan, including:
  - I. A survey or aerial photograph showing all existing and proposed buildings, well, septic system (or other restroom facilities), outside storage area(s), driveway access(s), and any public or private easements
  - II. Existing and proposed screening (if required). Screening may consist of coniferous trees not less than 6' in height, planted not less than 8' apart and/or a non-transparent fence not less than 6' in height
  - III. Existing and proposed signage, including a dimensional diagram of proposed signage
- G. A Certificate of Septic Compliance. If the septic system is older than ten (10) years and has not had a passing septic compliance check within the past ten (10) years, A septic compliance check must be completed. If the septic system is not in compliance with state regulations, the septic system must be upgraded before the Planning & Zoning Department will consider a IUP application to be complete.
- H. Written description of any maintenance to take place on-site, including how hazardous materials will be stored and disposed of
- I. A certificate of insurance
- J. Wetland Impact approval (if applicable)
- K. A completed Comment Form by the applicable Town Board
- L. Any additional information required by the Zoning Administrator specific to the IUP request

**3. Notification and Public Hearing:**

The notification for public hearings shall conform to Minn. Statutes 394.2620 as amended.

**4. Findings:**

No Interim Use Permit shall be approved or recommended for approval by the County Planning Commission unless said Commission shall find:

1. That the 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 and impair property values within the immediate vicinity.
2. That the establishment of the Interim Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

5. **Report to the County Board:**

For each application for an Interim Use Permit where applicable, the County Planning Commission shall report to the Board of County Commissioners its finding and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. Upon receipt of the report of the Planning Commission, the Board of Commissioners *may* hold a public hearing and shall make a decision upon the proposal to grant or deny an Interim Use Permit.

6. **Fees:**

The applicant shall pay all IUP and recording fees as determined by the County Board in the Fee Ordinance. All fees are considered the minimum amounts necessary to reimburse the County for costs incurred in processing the application and investigating the application and the proposed premises and are, therefore, non-refundable. As a condition of approval of the IUP, the County Board may require an additional annual Inspection Fee as stated in the Fee Ordinance. The Annual Inspection Fee shall cover the cost of County Staff or their agent to inspect the property as required within the IUP's conditions of approval.

7. **Compliance:**

Any use permitted under the terms of any Interim Use Permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in

connection therewith. *If the applicant does not abide by the conditions set forth in the permit, the County has the right to either revoke the permit or hold another hearing to investigate and set additional conditions.*

**8. Incomplete Applications:**

- A) Incomplete applications shall be considered denied one (1) year from the date of the application if the proposal has not obtained the required approvals. The Zoning Administrator may grant one 6-month extension if the Zoning Administrator determines that continuous progress has been made to keep the application moving toward approval.
- B) An application shall be considered incomplete if the Township comments have not been submitted to the County.

**Subdivision 7: Building Permit, Certificate of Occupancy**

**1. Building Permit:**

- A. Thereafter no person shall erect, alter, or move any building or part thereof without first securing a Building Permit therefor except that no permit will be required for structures listed as "Exempted Work" in the current edition of the "Minnesota State Building Code".
- B. Application for a building permit shall be made to the Building Official on blank forms to be furnished by the County. Each application for a permit to construct or alter a building shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected. Applications for any kind of building permit shall contain such other information as may be deemed necessary for the proper enforcement of this Ordinance or any other. The Building Official shall issue the building permit only after determining that the building plans, together with the application, comply with the terms of this Ordinance.
- C. State and County Road Access Permits from Mn/DOT and County Highway Engineer must be submitted at time of application.
- D. Building Permit fees and other fees as may be established by resolution of the Board of County Commissioners shall be collected by the Building Official for deposit with the County and credited to the general revenue fund.
  - 1. If a building permit application is denied, the permit fee shall be refunded to the applicant.

2. If no inspections have been made and no work authorized by the permit has been performed, fifty percent (50%) of the permit fee may be refunded to the applicant upon request, provided that the permit is returned to the Building Official within ninety (90) days.
3. If work is commenced prior to obtaining a permit, the Building Official shall assess an investigation fee equal to the building permit fee, as permitted in the current edition of the Minnesota State Building Code.

**2. Certificate of Occupancy:**

- A. A certificate of occupancy shall be obtained before any non-agricultural building hereafter erected or structurally altered is occupied or used or the use of any such building is altered, as specified in the current edition of the Uniform Building Code.
- B. Every certificate of occupancy shall state that the building or proposed use of a building or land complies with all provision of law and this Ordinance. A record of all certified copies shall be furnished on request to any person having proprietary of tenancy in interest in the building or land affected.

**Subdivision 8: Violations, Penalties and Enforcement**

1. **Violations and Penalties:** Any person, firm or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions thereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished pursuant to law.
2. **Enforcement:** This Ordinance shall be administered and enforced by the Zoning Administrator, who is hereby designated the enforcing officer.
3. **Compliance:** No permit or other approval may be issued for any property on which there is a violation of any Sherburne County Ordinance, unless the Zoning Administrator determines that the permit is necessary to resolve the violation.
4. **Actions:** In the event of a violation or a threatened violation of this Ordinance, the Board of County Commissioners or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.

5. **Mandamus Proceedings:** Any taxpayer or taxpayers of the County may institute mandamus proceedings in the District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.