

## **Chapter 700. Variances.**

700.1 Introduction to Chapter. Variances may be granted to allow certain departures from the requirements of this Ordinance to include, but not be limited to, Setbacks, Lot Width and Lot depth, Lot Area, height of a Building, Structure or Antenna, Parking Spaces and Use, in accordance with the provisions of this Chapter.

700.2 Application. A Variance Application, which shall not be deemed properly submitted unless executed by the Owner and Applicant, shall be made to the Zoning Administrator together with all required filing fees. The Variance Application shall be accompanied by a site plan providing such information as necessary to demonstrate compliance with this Ordinance, including but not limited to the following, if deemed applicable by the Zoning Administrator:

- a) Street location of the Lot and/or Parcel;
- b) Address of the Lot and/or Parcel;
- c) Name, address, phone number of the Owner and Applicant;
- d) Legal Description of the Lot and/or Parcel;
- e) Existing and proposed easements;
- f) Gross Acreage of the Lot and/or Parcel;
- g) Detailed description as to the number of labor hours which it is reasonably estimated will be necessary for completion of the project giving rise to the proposed Variance;
- h) Detailed description of the request and reason for the request for a Variance;
- i) Site plan drawn to a minimum scale of 1" = 100 feet or other scale to be approved by the Zoning Administrator showing the Lot and/or Parcel and Building dimensions, including square footage, with accurate measurements and location of all existing and proposed Buildings and improvements on the Lot and/or Parcel together with all Setbacks from the Lot Lines and Public Road Right-of-Way;
- j) Driveways, Access Roads, Parking Spaces, Off-Street Parking and Loading Areas;

- k) Landscaping, Fences and screening plans;
- l) Drainage Plan, including a written statement as to the potential effect on adjacent Lots and/or Parcels, and SWPPP;
- m) Septic system and well location with estimated use per day;
- n) Soil type; and
- o) Any additional written or graphic data reasonably required by the Zoning Administrator, Town Board or Planning Commission.

700.3 Demonstration of Hardship. The Owner or Applicant must demonstrate that the Hardship for which the Variance is based is caused by the application and enforcement of this Ordinance and not by any Person having an interest in the Lot and/or Parcel. “Hardship” for purposes of this Chapter of this Ordinance shall mean:

- a) The Lot and/or Parcel in question cannot be put to a reasonable Use, as determined by the Board of Adjustment and Appeals, if used under the conditions allowed by this Ordinance;
- b) The conditions upon which the request for a Variance is based are unique and not generally applicable to other Lots and/or Parcels within the Town;
- c) The plight of the Owner is due to circumstances not created by the Owner; and
- d) The Variance, if granted, will not alter the essential character of the locality.

Only if the Variance Application meets all of the conditions as provided in Section 700.3(a)-(b) above may a Variance be granted. Economic considerations alone shall not constitute a Hardship if a reasonable Use for the Lot and/or Parcel exists under the terms of this Ordinance. Access to direct sunlight in the case of solar energy systems shall constitute grounds for granting a Variance.

700.4 Criteria for Granting Variances. In recommending approval of a Variance Application, the Zoning Administrator and the Planning Commission shall consider the effect of the proposed Variance upon the health, safety, morals, and general welfare of occupants of surrounding Lots and/or Parcels and water bodies. In addition to the required conditions as provided in Section 700.3 above, the following criteria shall be considered (1) by the Zoning Administrator in making its Variance Report and

Recommendations; and (2) by the Planning Commission at the Public hearing and in making its Variance Report and Recommendation and findings of fact provided to the Board of Adjustment and Appeals and; (3) by the Board of Adjustment and Appeals in its findings of fact when determining the issuance of a Variance:

- a) The proposed variant Use must not be prohibited in the Zoning District in which the relevant Lot and/or Parcel is located;
- b) The Variance must be in harmony with the general purpose and intent of this Ordinance;
- c) The Variance must be consistent with the general purpose of the Comprehensive Plan;
- d) The Variance must not be substantially detrimental to the public welfare or to other adjacent Lots and/or Parcels;
- e) The Variance will not create an excessive burden on existing Public Roads and other public facilities and/or Essential Services which serve or are proposed to serve the affected Lot and/or Parcel and other Lots and/or Parcels adjacent thereto;
- f) The Variance will be sufficiently compatible or separated by distance or screening from adjacent Agricultural Land Uses or Residential Land Uses so that existing Residential Dwellings will not be depreciated in value and there will be no deterrence to development of vacant land;
- g) The Structures and the Lot and/or Parcel shall have an appearance that will not have an adverse effect upon or be injurious to the Use and enjoyment of the adjacent Lots and/or Parcels;
- h) The Variance, in the opinion of the Planning Commission, is reasonably related to the Existing Use of the Lot and/or Parcel upon which the proposed Variance will occur;
- i) The Variance is consistent with the purpose of this Ordinance and the purpose of the Zoning District in which the Applicant intends to locate the proposed Variance;
- j) Adequate utilities, Access Roads, drainage and other necessary facilities have been or will be provided;

- k) Adequate measures have been or will be taken to provide sufficient Off-Street Parking and Loading Area to serve the Lot and/or Parcel subject to the Variance;
- l) 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 Lots and/or Parcels will result;
- m) Proper facilities are provided which would substantially mitigate any traffic congestion and/or traffic hazard which may result from the Variance;
- n) A demonstrated need for the Variance can be shown;
- o) Whether the Variance effects the health, safety and/or general welfare of the citizens of the Town;
- p) Whether the Variance may cause any soil erosion or other possible pollution of public waters, both during and after construction;
- q) Whether the subject Lot and/or Parcel will adequately support water supply and on-site sewage treatment.

700.5 Procedure.

- a) The Applicant applying for a Variance shall fill out and submit to the Zoning Administrator a Variance Application and shall schedule an appointment to review said Variance Application with the Zoning Administration upon submission thereof. The Variance Application shall include a statement of the difficulties or particular Hardships claimed, along with the filing fee.
- b) Upon submission, the Zoning Administrator shall review the Variance Application with the Applicant to determine if the Variance Application is complete. If said Variance Application is not complete, the Zoning Administrator shall, within fifteen (15) business days of the submission of the Variance Application, request any and all missing information from the Applicant. For purposes of this Chapter 700, a Variance Application shall be considered complete if:
  - 1) said Variance Application contains all information as required pursuant to Section 700.2 above; or

- 2) said Variance Application contains less than all information as required pursuant to Section 700.2 above, but the Zoning Administrator determines that certain requirements as contained in Section 700.2 are inapplicable and/or unnecessary, and deems the Variance Application complete nonetheless; or
- 3) the fifteen (15) day review period as described in Section 700.5(b) above expires without the Zoning Administrator submitting to Applicant a request for additional and/or missing information.

The above notwithstanding, no Variance Application shall be deemed complete unless and until the Applicant has provided the Zoning Administrator with fifteen (15) copies of said complete Variance Application, inclusive of any and all site plans and any other supporting documentation. The Applicant shall provide any oversized plans to the Zoning Administrator in a folded form and submit fifteen (15) additional copies of any such oversized plans in a size not to exceed 11 x 17.

- c) Upon submission of a complete Variance Application, the Zoning Administrator shall refer the completed Variance Application, along with all related information, including the Zoning Administrator's Variance Report and Recommendation and findings of fact evaluating the Applicant's compliance with Sections 700.3 and 700.4 of this Chapter, to the Planning Commission acting in an advisory role to the Board of Adjustment and Appeals. The Zoning Administrator shall cause the Town Clerk to add the Public Hearing for said completed Variance Application to the Planning Commission's Agenda no later than the date by which said completed Variance Application is submitted to the Planning Commission for review. No Variance Application may be acted upon by the Board of Adjustment and Appeals until the Board of Adjustment and Appeals has received the Planning Commission's recommendations thereon
- d) Written Notice of a Public Hearing on any complete Variance Application shall be sent by the Town Clerk to all members of the Board of Adjustment and Appeals and to all members of the Planning Commission not less than ten (10) days prior to the date of the Public Hearing, as well as to the Applicant and/or Owner of the affected Lot and/or Parcel. Such Written Notice shall be accompanied by copies of the completed Variance Application.

- e) Written Notice of a Public Hearing shall be provided by the Town Clerk to Owners of Record within one quarter (¼) mile of the affected Lot and/or Parcel, or to the ten Owners of Lots and/Parcels nearest to the affected Lot and/or Parcel, whichever would provide Written Notice to the greatest number of Owners of Record as well as the Owner and Applicant of the affected Lot and/or Parcel, not less than ten (10) days nor more than thirty (30) days prior to the date of the Public Hearing. Failure of an Owner of Record to receive Written Notice shall not invalidate such proceedings;
- f) A Public Hearing on a complete Variance Application shall be held by the Planning Commission within thirty (30) days after the submission of the complete Variance Application to the Zoning Administrator. Notice of the Public Hearing shall be Published in the Official Newspaper designated by the Town Board at least ten (10) days prior to the Public Hearing.
- g) The Owner, Applicant or representative thereof shall appear before the Planning Commission at the Public Hearing in order to present evidence concerning the Variance Application.
- h) The Planning Commission may recommend the imposing of conditions on the granting of any Variance to insure compliance with the Variance and this Ordinance, and to protect adjacent Lots and/or Parcels and the public interest. The Board of Adjustment and Appeals may place additional conditions upon the issuance of a Variance above and beyond those conditions, if any, suggested by the Planning Commission.
- i) The Planning Commission and/or Zoning Administrator shall have the authority to request additional information from the Applicant, above and beyond the information required to be provided pursuant to Section 700.2 above, concerning the proposed variant Use as may be necessary in making any determination thereon. In addition, if in the discretion of the Planning Commission and/or the Zoning Administrator, further information is required in making any determination with respect to any Variance Application, either the Planning Commission and/or the Zoning Administrator shall have the authority to retain third-party expert testimony at the expense of the Applicant concerning the impact of the proposed variant Use and/or regarding any other factors relating thereto.
- j) After the Public Hearing, the Planning Commission shall make a Variance Report and Recommendation, along with findings of fact,

to the Board of Adjustment and Appeals including any additional conditions it considers necessary to protect the public health, safety and welfare of the Town. The Town Board, acting as the Board of Adjustment and Appeals, shall place the Variance Report and Recommendation and findings of fact on the Town Board Agenda for the next Regular Meeting of the Town Board, sitting as the Board of Adjustment and Appeals, following the Public Hearing recommending approval, disapproval, or modified approval of the request as provided in the Variance Application. Variance Report and Recommendation and corresponding findings of fact shall be entered in and made a part of the written record of the Board of Adjustment and Appeals' meeting at which said Variance Application is discussed and reviewed.

- k) Within sixty (60) days after the submission of the completed Variance Application by the Applicant to the Zoning Administrator or within sixty (60) days of resubmission of the Variance Application by the Applicant to the Zoning Administrator if further information was requested by the Zoning Administrator as provided in Section 700.5(b), the Board of Adjustment and Appeals shall:
  - 1) Approve or disapprove the request pursuant to the Variance Report and Recommendation and findings of fact submitted to it by the Planning Commission; or
  - 2) Approve or disapprove the Variance Report and Recommendation and findings of fact of the Planning Commission with modifications, alterations or differing conditions. Such modifications or differing conditions shall be in writing and made part of the Board of Adjustment and Appeals' records; or
  - 3) Refer the Variance Report and Recommendation and findings of fact back to the Planning Commission for further consideration. This procedure shall be followed only one time on a singular action.
- l) The Board of Adjustment and Appeals, Planning Commission or Zoning Administrator may extend the time limit as provided in 700.5(k) if before the end of the initial sixty (60) day period the Board of Adjustment and Appeals, Planning Commission or Zoning Administrator provides Written Notice of the extension to the Applicant stating the reasons for the extension and its anticipated length, which may not exceed an additional sixty (60) days unless approved by the Applicant.

- m) Approval of completed Variance Applications shall require passage by a 2/3rds vote of the full Board of Adjustment and Appeals. The Town Clerk shall notify the Applicant of the Board of Adjustment and Appeals' action in accordance with the time frame as provided in Section 700.5 herein.
- n) Variance Report and Recommendations and findings of fact of the Planning Commission shall be advisory to the Board of Adjustment and Appeals. The decisions of the Board of Adjustment and Appeals shall be subject to judicial review.
- o) In the event a Variance Application is denied, no Variance Application affecting the same Lot and/or Parcel and proposing a variant Use of a substantially same or similar nature as that which was initially proposed in the denied Variance Application may be resubmitted by any Applicant for a period of six (6) months from the date of said order of denial, unless said Applicant can demonstrate a clear showing to the Zoning Administrator of new evidence and/or change in circumstances impacting said Variance Application.
- p) Variances that are approved by the Board of Adjustment and Appeals become void if the Applicant does not proceed substantially on the work permitted pursuant to said Variance within six (6) months after approval of the Variance Application. To proceed substantially means to make visible improvements to the Lot and/or Parcel and to have had applied to the Lot and/or Parcel at least 40% of the labor hours which it was reasonable estimated would be necessary for completion of the project. One or more extensions of not more than six (6) months each may be granted by the Board of Adjustment and Appeals for good cause, as determined thereby.

700.6 Recording. A certified copy of any Variance shall be filed with the Kanabec County Recorder by the Town Clerk within thirty (30) days of approval thereof. The Variance shall include the Legal Description of the Lot and/or Parcel for which said Variance was granted.

700.7 Compliance. Any variant Use permitted under the terms of any Variance shall be established and conducted in conformity with the terms of such Variance and any conditions connected to such Variance. If the actual Use of the Lot and/or Parcel does not conform to the conditions as set forth in the Variance, the Variance may be revoked in accordance with Section 700.8 below.

700.8 Revocation. Upon learning of a circumstance whereby the actual Use of a Lot and/or Parcel is not in conformance with the conditions set forth in a Variance affecting said Lot and/or Parcel, the Zoning Administrator shall refer said Variance, along with any and all information relating thereto, including, but not limited to, any information purporting to show that the Use of the Lot and/Parcel affected by said Variance is not being carried out in accordance therewith, to the Planning Commission for review and shall set the same for Public Hearing before the Planning Commission. A Public Hearing regarding said Variance shall be held by the Planning Commission within thirty (30) days of receipt of the same from the Zoning Administrator. Notice of the Public Hearing shall be Published in the Official Newspaper and Written Notice shall be provided to the Owner and Applicant at least ten (10) days prior to the Public Hearing. Subsequent to the Public Hearing, the Planning Commission shall place the Variance Revocation matter on the Town Board Agenda for the next Regular Meeting of the Town Board, sitting as the Board of Adjustment and Appeals. The Board of Adjustment and Appeals shall make its decision regarding said Variance Revocation matter within sixty (60) days from the date of the Public Hearing discussed in this Section 700.8. A decision to revoke a Variance shall require passage by a 2/3rds vote of the full Board of Adjustment and Appeals. The Zoning Administrator or Town Clerk shall notify the Variance Applicant of the Board of Adjustment and Appeals' action accordingly. A certified copy of any Variance Revocation shall be filed with the Kanabec County Recorder by the Town Clerk within thirty (30) days of revocation thereof. The Variance Revocation shall include the Legal Description of the Lot and/or Parcel for which said Variance was revoked.

**[END OF CHAPTER 700]**

## **Chapter 710. Conditional Use Permits.**

710.1 Introduction to Chapter. Conditional Use Permits may be granted to allow certain Uses within a Zoning District designated as Conditional Uses where the proposed Conditional Use meets all of the requirements of this Ordinance or can, with appropriate conditions attached, meet the requirements of this Ordinance.

710.2 Application. A Conditional Use Permit Application, which shall not be deemed properly submitted unless executed by both the Owner and Applicant, shall be made to the Zoning Administrator together with all required fees. The Conditional Use Application shall be accompanied by a site plan providing such information as is necessary to demonstrate compliance with this Ordinance, including but not limited to:

- a) Street location of the Lot and/or Parcel;
- b) Name, address, phone number of the Owner and Applicant;
- c) Legal Description of the Lot and/or Parcel;
- d) Existing and proposed easements;
- e) Gross Acreage of the Lot and/or Parcel;
- f) Detailed description as to the number of man hours which it is reasonably estimated will be necessary for completion of the project giving rise to the proposed Conditional Use;
- g) A statement and explanation as to how the Conditional Use Application is consistent with the Town's Comprehensive Plan;
- h) Detailed description of the request and reason for the request for a Conditional Use;
- i) Site plan drawn to a minimum scale of 1" = 100 feet, or other scale to be approved by the Zoning Administrator, showing the Lot and/or Parcel and Building dimensions, including square footage, with accurate measurements and location of all existing and proposed Buildings and improvements on the subject Lot and/or Parcel, together with all Setbacks from the Lot Lines and Public Road Right-of-Way;
- j) Driveways, Access Roads, Parking Spaces, Off-Street Parking and Loading Areas;

- k) A parking plan describing the number of Parking Spaces, traffic patterns and parking access;
- l) Landscaping, Fences and screening plans;
- m) Drainage Plan, including a written statement as to the potential effect on adjacent Lots and/or Parcels and SWPPP;
- n) Description of the material proposed to complete the exterior of the Building and/or Structure;
- o) Description of any proposed lighting to be used, and the potential effect of said lighting on adjacent Lots and Parcels;
- p) Septic system and well location with estimated use per day;
- q) Utility plan, including, but not limited to, the types of utilities existing and/or proposed (telephone lines, power lines, DSL lines, cable, gas lines, outdoor propane tanks, garbage/refuse receptacles, etc) and the location and/or proposed location of said utility lines;
- r) Description of any Signage;
- s) Soil type; and
- t) Any additional written or graphic data reasonably required by the Zoning Administrator, Town Board or Planning Commission.

710.3 Criteria for Granting Conditional Use Permits. In recommending approval of a Conditional Use Permit Application, the Zoning Administrator and the Planning Commission shall consider the effect of the proposed Conditional Use upon the health, safety, morals, and general welfare of occupants of surrounding Lots and/or Parcels and water bodies. The following criteria shall be considered by (1) the Zoning Administrator in making its Conditional Use Permit Report and Recommendations; and (2) by the Planning Commission at the Public Hearing and in making its Conditional Use Permit Report and Recommendation and findings of fact provided to the Town Board; and (3) by the Town Board in its findings of fact when determining the issuance of a Conditional Use Permit:

- a) The proposed Conditional Use is not prohibited in the Zoning District in which the relevant Lot and/or Parcel is located;
- b) The proposed Conditional Use must be in harmony with the general purpose and intent of this Ordinance;

- c) The proposed Conditional Use must not be substantially detrimental to the public welfare or to other adjacent Lots and/or Parcels;
- d) The proposed Conditional Use will not create an excessive burden on existing Public Roads and other public facilities and/or Essential Services which serve or are proposed to serve the affected Lot and/or Parcel and other Lots and/or Parcels adjacent thereto;
- e) The proposed Conditional Use will be sufficiently compatible or separated by distance or screening from adjacent Agricultural Land Uses or Residential Land Uses so that existing Residential Dwellings will not be depreciated in value and there will be no deterrence to development of vacant land;
- f) The Structures and the Lot and/or Parcel shall have an appearance that will not have an adverse effect upon or be injurious to the Use and enjoyment of the adjacent Lots and/or Parcels;
- g) The proposed Conditional Use, in the opinion of the Planning Commission, is reasonably related to the Existing Use of the Lot and/or Parcel upon which the proposed Conditional Use will occur;
- h) The proposed Conditional Use is consistent with the purpose of this Ordinance and the purpose of the Zoning District in which the Applicant intends to locate the proposed Conditional Use;
- i) The proposed Conditional Use is not in conflict with the Comprehensive Plan of the Town;
- j) Adequate utilities, Access Roads, drainage and other necessary facilities have been or will be provided;
- k) Adequate measures have been or will be taken to provide sufficient Off-Street Parking and Loading Area to serve the proposed Conditional Use;
- l) 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 Lots and/or Parcels will result;

- m) Proper facilities are provided which would substantially mitigate any traffic congestion and/or traffic hazard which may result from the proposed Conditional Use;
- n) A demonstrated need for the proposed Conditional Use can be shown;
- o) Whether the proposed Conditional Use effects the health, safety and/or general welfare of the citizens of the Town;
- p) Whether the Proposed Conditional Use may cause any soil erosion or other possible pollution of public waters, both during and after construction; and
- q) Whether the subject Lot and/or Parcel will adequately support water supply and on-site sewage treatment.

710.4 Conditions. In reviewing an application for a new Conditional Use or for the alteration of an existing Conditional Use, the Planning Commission may recommend the imposition, in addition to the standards and requirements expressly specified by this Ordinance, of additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding Lots and/or Parcels or the Town as a whole. These conditions may include, but are not limited to, the following:

- a) Increasing the required Lot Area or Lot dimensions;
- b) Limiting the height, size or location of Buildings;
- c) Controlling the location and number of vehicle access points;
- d) Increasing the Street Width;
- 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 to protect adjacent or nearby Lots and/or Parcels;
- h) Designating sites for open space; and/or
- i) Limiting the hours of operation.

Any change involving structural alterations, enlargement, intensification of Use, or similar change not specifically permitted by the Conditional Use Permit issued, shall require an amended Conditional Use Permit and all procedures shall apply as if a new Conditional Use Permit were being issued. The Zoning Administrator shall maintain a record of all Conditional Use Permits issued including information on the Use, location, and conditions imposed by the Planning Commission, time limits, review dates, and such other information as may be appropriate.

710.5 Procedure.

- a) The person applying for a Conditional Use Permit shall complete and submit to the Zoning Administrator a Conditional Use Permit Application and filing fee;
- b) Conditional Use Permit Applications shall be executed by the Owner of the affected Lot and/or Parcel and Applicant;
- c) Upon submission, the Zoning Administrator shall review the Conditional Use Permit Application with the Applicant to determine if the Conditional Use Permit Application is complete. If said Conditional Use Permit Application is not complete, the Zoning Administrator shall, within fifteen (15) business days of the submission of the Conditional Use Permit Application, request any and all missing information from the Applicant. For purposes of this Chapter 710, a Conditional Use Permit Application shall be considered complete if:
  - 1) said Conditional Use Permit Application contains all information as required pursuant to Section 710.2 above; or
  - 2) said Conditional Use Permit Application contains less than all information as required pursuant to Section 710.2 above, but the Zoning Administrator determines that certain requirements as contained in Section 710.2 are inapplicable and/or unnecessary, and deems the Conditional Use Permit Application complete nonetheless; or
  - 3) the fifteen (15) day review period as described in Section 710.5(c) above expires without the Zoning Administrator submitting to Applicant a request for additional and/or missing information.

The above notwithstanding, no Conditional Use Permit Application shall be deemed complete unless and until the Applicant has provided the Zoning Administrator with fifteen (15)

copies of said complete Conditional Use Permit Application, inclusive of any and all site plans and any other supporting documentation. The Applicant shall provide any oversized plans to the Zoning Administrator in a folded form and submit fifteen (15) additional copies of any such oversized plans in a size not to exceed 11 x 17.

- d) Any completed Conditional Use Permit Application shall be referred to the Planning Commission by the Zoning Administrator for review and a Public Hearing, along with all related information relating thereto, including the Zoning Administrator's Conditional Use Permit Report and Recommendation and findings of fact evaluating the Applicant's compliance with Sections 710.3 of this Chapter. The Zoning Administrator shall cause the Town Clerk to add the Public Hearing to the Planning Commission's Agenda no later than the date by which said completed Conditional Use Permit Application is submitted to the Planning Commission for review. No Conditional Use Permit Application may be acted upon by the Town Board until the Town Board has received the Planning Commission's recommendations thereon.
- e) Written Notice of a Public Hearing on any complete Conditional Use Permit Application shall be sent by the Town Clerk to all members of the Town Board and all members of the Planning Commission not less than ten (10) days prior to the date of the Public Hearing. Such Written Notice shall be accompanied by copies of the completed Conditional Use Permit Application.
- f) Written Notice of a Public Hearing shall be provided by the Town Clerk to Owners of Record within one quarter (1/4) mile of the affected Lot and/or Parcel, or to the ten Owners of Lots and/Parcels nearest to the affected Lot and/or Parcel, whichever would provide Written Notice to the greatest number of Owners of Record as well as the Owner and Applicant of the affected Lot and/or Parcel, not less than ten (10) days nor more than thirty (30) days prior to the date of the Public Hearing. Failure of an Owner of Record to receive Written Notice shall not invalidate such proceedings;
- g) A Public Hearing on a complete Conditional Use Permit Application shall be held by the Planning Commission within thirty (30) days after the submission of the complete Conditional Use Permit Application to the Zoning Administrator. Notice of the Public Hearing shall be Published in the Official Newspaper

designated by the Town Board at least ten (10) days prior to the Public Hearing;

- h) The Applicant or his representative shall appear at the Public Hearing to present evidence concerning the Conditional Use Permit Application;
- i) Following the Public Hearing, the Planning Commission shall submit a Conditional Use Permit Report and Recommendation, together with findings of fact, to the Town Board including any additional conditions it considers necessary to protect the public health, safety and welfare. The Town Clerk shall place the Conditional Use Permit Report and Recommendation and findings of fact on the Town Board Agenda for the next Regular Meeting of the Town Board following the Public Hearing recommending approval, disapproval, or modified approval of the request as provided in the Conditional Use Permit Application.
- j) Within sixty (60) days after the submission of the complete Conditional Use Permit Application by the Applicant to the Zoning Administrator, or within sixty (60) days of resubmission of the Conditional Use Permit Application by the Applicant to the Zoning Administrator if further information was requested by the Zoning Administrator as provided in Section 710.5(c), the Town Board shall either:
  - 1) Approve or disapprove the request pursuant to the Conditional Use Permit Report and Recommendation and findings of fact submitted to it by the Planning Commission; or
  - 2) Approve or disapprove the Conditional Use Permit Report and Recommendation and findings of fact of the Planning Commission with modifications, alterations or differing conditions. Such modifications or differing conditions shall be in writing and made part of the Town Board's records; or
  - 3) Refer the Conditional Use Permit Report and Recommendation findings of fact back to the Planning Commission for further consideration. This procedure shall be followed only one time on a singular action.
- k) The Town Board, Planning Commission or Zoning Administrator may extend the time limit as provided in 710.5(j) if, before the end of the initial sixty (60) day period, the Town Board, Planning

Commission or Zoning Administrator provides Written Notice of the extension to the Applicant stating the reasons for the extension and its anticipated length, which may not exceed an additional sixty (60) days unless approved by the Applicant.

- l) Approval of a complete Conditional Use Permit Application shall require passage by a 2/3rds vote of the full Town Board. The Town Clerk shall notify the Applicant of the Town Board's action in accordance with the time frame as provided in Section 710.5 herein.
- m) If the Town Board grants the Conditional Use Permit, it may impose conditions it considers necessary to protect the public health, safety and welfare of the Town. Such conditions may include a time limit for the Conditional Use to exist or operate;
- n) An amended Conditional Use Permit Application shall be administered in a manner similar to that required for a new Conditional Use Permit. The fee shall be as set by separate action of the Town Board. Amended Conditional Use Permit Applications shall include requests for changes in conditions and as otherwise described in this Ordinance;
- o) In the event a Conditional Use Permit Application is denied, no Conditional Use Permit Application affecting the same Lot and/or Parcel and proposing a Conditional Use of a substantially same or similar nature as that which was initially proposed in the denied Conditional Use Permit Application may be resubmitted by any Applicant for a period of six (6) months from the date of said order of denial, unless said Applicant can demonstrate a clear showing to the Zoning Administrator of new evidence and/or change in circumstances impacting said Conditional Use Permit Application.
- p) If a time limit or period review is included as a condition by which a Conditional Use Permit is granted, the Conditional Use Permit may be reviewed at a Public Hearing before the Planning Commission with Written Notice of said Public Hearing Published at least the ten (10) days prior to review; it shall be the responsibility of the Zoning Administrator to schedule such Public Hearings before the Planning Commission and neither the Applicant nor the Owner of the Lot and/or Parcel having a Conditional Use Permit shall be required to pay a fee for said review.
- q) A Public Hearing for annual review of any granted Conditional Use Permit may be required at the discretion of the Planning

Commission or Town Board, even if said granted Conditional Use Permits does not explicitly require the performance of an annual review as a condition thereof;

- r) Granted Conditional Use Permits shall become void if Applicant does not proceed substantially on the work contemplated pursuant to the Conditional Use Permit Application within six (6) months of the granting of said Conditional Use Permit. To proceed substantially means to make visible improvements to the Lot and/or Parcel and to have had applied to the Lot and/or Parcel at least 40% of the labor hours which it was reasonably estimated would be necessary for completion of the project. One or more extensions for not more than six (6) months each may be granted by the Planning Commission for good cause, as determined thereby;
- s) If the actual Use of the Lot and/or Parcel does not conform to the conditions of the Conditional Use Permit, the Conditional Use Permit may be revoked.

710.6 Recording. A certified copy of any Conditional Use Permit shall be filed with the Kanabec County Recorder by the Town Clerk within thirty (30) days of approval thereof. The Conditional Use Permit shall include the Legal Description of the Lot and/or Parcel for which said Conditional Use is permitted.

710.7 Compliance. Any Use permitted under the terms of any Conditional Use Permit shall be established and conducted in conformity with the terms of such Conditional Use Permit as well as with any and all conditions connected to such Conditional Use Permit. If the actual Use of the Lot and/or Parcel does not conform to the conditions as set forth in the Conditional Use Permit, the Conditional Use Permit may be revoked in accordance with Section 710.8 below.

710.8 Revocation. Upon learning of a circumstance whereby the actual Use of a Lot and/or Parcel is not in conformance with the conditions set forth in a Conditional Use Permit affecting said Lot and/or Parcel, the Zoning Administrator shall refer said Conditional Use Permit, along with any and all information relating thereto, including, but not limited to, any information purporting to show that the Use of the Lot and/or Parcel affected by said Conditional Use Permit is not being carried out in accordance therewith, to the Planning Commission for review and shall set the same for Public Hearing before the Planning Commission. A Public Hearing regarding said Conditional Use Permit shall be held by the Planning Commission within thirty (30) days of receipt of the same from the Zoning Administrator. Notice of the Public Hearing shall be Published

in the Official Newspaper and Written Notice shall be provided to the Owner and Applicant at least ten (10) days prior to the Public Hearing. Subsequent to the Public Hearing, the Planning Commission shall place the Conditional Use Permit Revocation matter on the Town Board Agenda for the next Regular Meeting of the Town Board. The Town Board shall make its decision regarding said Conditional Use Permit Revocation matter within sixty (60) days from the date of the Public Hearing discussed in this Section 710.8. A decision to revoke a Conditional Use Permit shall require passage by a 2/3rds vote of the full Town Board. The Zoning Administrator or Town Clerk shall notify the Conditional Use Permit Applicant of Town Board's action accordingly. A certified copy of any Conditional Use Permit Revocation shall be filed with the Kanabec County Recorder by the Town Clerk within thirty (30) days of revocation thereof. The Conditional Use Permit Revocation shall include the Legal Description of the Lot and/or Parcel for which said Conditional Use Permit was revoked.

710.9 Lapse of Conditional Use Permit by Non-Use. If at any time after the grant of a Conditional Use Permit the Zoning Administrator determines that the permitted Conditional Use has lapsed for a period of time in excess of one year, then such Conditional Use Permit shall become null and void.

**[END OF CHAPTER 710]**

**Chapter 720. Petition for Amendment of the Zoning Classification of a Specific Lot and/or Parcel.**

720.1 Introduction to Chapter. A petition to amend the zoning classification of a specific Lot and/or Parcel as provided under Chapters 200 through 299 of this Ordinance, as may be established from time to time, or to the Zoning Map shall be initiated by an Owner of said Lot and/or Parcel in the Town, or the Owner's agent, by submission of a Re-Zoning Petition and filing fee to the Zoning Administrator.

720.2 Petition. A Re-Zoning Petition, which shall not be deemed properly submitted unless executed by both the Owner and Petitioner, shall be made to the Zoning Administrator together with all required filing fees. The Re-Zoning Petition shall be accompanied by a site plan providing such information necessary to demonstrate to the Zoning Administrator compliance with this Ordinance, including but not limited to the following, if applicable:

- a) Street location of the Lot and/or Parcel;
- b) Address of the Lot and/or Parcel;
- c) Name, address, phone number of the Owner and Petitioner;
- d) Legal Description of the Lot and/or Parcel;
- e) Existing and proposed easements;
- f) Gross Acreage of the Lot and/or Parcel;
- g) A statement and explanation as to how the Re-Zoning Petition and Use is consistent with the Town's Comprehensive Plan;
- h) Detailed description of the request and reason for the request for a Re-Zoning Petition;
- i) Site plan drawn to a minimum scale of 1" = 100 feet or other scale to be approved by the Zoning Administrator showing the Lot and/or Parcel and Building dimensions, including square footage, with accurate measurements and location of all existing and proposed Buildings and improvements on the subject Lot and/or Parcel, together with all Setbacks from the Lot Lines and Public Road Right-of-Way;
- j) Driveways, Access Roads, Parking Spaces, Off-Street Parking and Loading Areas;

- k) A parking plan describing the number of Parking Spaces, traffic patterns and parking access;
- l) Landscaping, Fences and screening plans;
- m) Drainage Plan, including a written statement as to the potential effect on adjacent Lots and/or Parcels and SWPPP;
- n) Description of the material proposed to complete the exterior of the Building and/or Structure;
- o) Description of any proposed lighting to be used, and the potential effect of said lighting on adjacent Lots and Parcels;
- p) Septic system and well location with estimated use per day;
- q) Utility plan, including, but not limited to, the types of utilities existing and/or proposed (telephone lines, power lines, DSL lines, cable, gas lines, outdoor propane tanks, garbage/refuse receptacles, etc) and the location and/or proposed location of said utility lines;
- r) Description of any Signage;
- s) Soil type; and
- t) Any additional written or graphic data reasonably required by the Zoning Administrator, Town Board or Planning Commission.

720.3 Criteria for Granting Re-Zoning Petition. In recommending approval of a Re-Zoning Petition, the Zoning Administrator and the Planning Commission shall consider the effect of the proposed Re-Zoning Petition upon the health, safety, morals, and general welfare of occupants of surrounding Lots and/or Parcels and water bodies. The following criteria shall be considered (1) by the Zoning Administrator in making its Re-Zoning Petition Report and Recommendation; and (2) by the Planning Commission at the Public Hearing and in making its Re-Zoning Report and Recommendation and findings of fact provided to the Town Board; and by the Town Board in its findings of fact when determining the whether to approve or deny a Re-Zoning Petition:

- a) The Use is not prohibited in the Zoning District in which the relevant Lot and/or Parcel is located;
- b) The Re-Zoning Petition and Use will not create an excessive burden on existing Public Roads and other public facilities and/or

Essential Services which serve or are proposed to serve the affected Lot and/or Parcel and other Lots and/or Parcels adjacent thereto;

- c) The Re-Zoning Petition and Use will be sufficiently compatible or separated by distance or screening from adjacent Agricultural Land Uses or Residential Land Uses so that existing Residential Dwellings will not be depreciated in value and there will be no deterrence to development of vacant land;
- d) The Structure and the Lot and/or Parcel shall have an appearance that will not have an adverse effect upon or be injurious to the Use and enjoyment of the adjacent Lots and/or Parcels;
- e) The Re-Zoning Petition and Use, in the opinion of the Planning Commission, are reasonably related to the Existing Use of the Lot and/or Parcel upon which the proposed Re-Zoning Petition will occur;
- f) The Re-Zoning Petition and Use are consistent with the purpose of this Ordinance and the purpose of the Zoning District in which the Petitioner intends to locate the proposed Re-Zoning Petition;
- g) The Re-Zoning Petition and Use are not in conflict with the Comprehensive Plan of the Town;
- h) Adequate utilities, Access Roads, drainage and other necessary facilities have been or will be provided;
- i) Adequate measures have been or will be taken to provide sufficient Off-Street Parking and Loading Area to serve the Lot and/or Parcel subject to the Re-Zoning Petition;
- j) 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 Lots and/or Parcels will result;
- k) Proper facilities are provided which would substantially mitigate any traffic congestion and/or traffic hazard which may result from the Re-Zoning Petition;
- l) A demonstrated need for the Re-Zoning Petition and Use can be shown;

- m) Whether the Re-Zoning Petition and Use effects the health, safety and/or general welfare of the citizens of the Town;
- n) Whether the Re-Zoning Petition and Use may cause any soil erosion or other possible pollution of public waters, both during and after construction;
- o) Whether the subject Lot and/or Parcel will adequately support water supply and on-site sewage treatment;

720.4 Procedure.

- a) A Re-Zoning Petition shall not be accepted unless executed by the Owner and Petitioner of the Lot and/or Parcel for which the Re-Zoning Petition is made.
- b) The Zoning Administrator shall review any Re-Zoning Petition to determine if the Re-Zoning Petition is complete. If said Re-Zoning Petition is not complete, the Zoning Administrator shall, within fifteen (15) business days of the submission of the Re-Zoning Petition, request any and all missing information from the Petitioner. For purposes of this Chapter 720, a Re-Zoning Petition shall be considered complete if:
  - 1) said Re-Zoning Petition contains all information as required pursuant to Section 720.2 above; or
  - 2) said Re-Zoning Petition contains less than all information as required pursuant to Section 720.2 above, but the Zoning Administrator determines that certain requirements as contained in Section 720.2 are inapplicable and/or unnecessary, and deems the Re-Zoning Petition complete nonetheless; or
  - 3) the fifteen (15) day review period as described in Section 720.4(b) above expires without the Zoning Administrator submitting to Petitioner a request for additional and/or missing information.

The above notwithstanding, no Re-Zoning Petition shall be deemed complete unless and until the Petitioner has provided the Zoning Administrator with fifteen (15) copies of said complete Re-Zoning Petition, inclusive of any and all site plans and any other supporting documentation. The Petitioner shall provide any oversized plans to the Zoning Administrator in a folded form and

submit fifteen (15) additional copies of any such oversized plans in a size not to exceed 11 x 17.

- c) All Re-Zoning Petitions shall be referred to the Planning Commission by the Zoning Administrator for review and a Public Hearing, along with all information relating thereto, including the Zoning Administrator's Re-Zoning Petition Report and Recommendation and findings of fact evaluating the Petitioner's compliance with Section 720.3 of this Chapter, and may not be acted upon by the Town Board until it has received the Planning Commission's recommendations.
- d) Written Notice of a Public Hearing on any proposed Re-Zoning Petition shall be sent by the Town Clerk to all members of the Town Board and all members of the Planning Commission, as well as to the Owner of the subject Lot and/or Parcel and to the Petitioner.
- e) If a Re-Zoning Petition involves changes in Zoning District boundaries affecting an area of five (5) Acres or less, a Written Notice shall be mailed by the Town Clerk at least ten (10) days in advance of the date of the Public Hearing to each Owner of Record of any affected Lot and/or Parcel as well as to the Owner of Record of any Lot and/or Parcel situated wholly or partly within three-hundred-fifty (350) feet of the Lot and/or Parcel to which the Re-Zoning Petition relates. Written Notice by the Town Clerk shall also be provided to the governing body of any jurisdiction within two miles of the specific Lot and/or Parcel to be affected by the proposed Re-Zoning Petition. Failure of an Owner or neighboring jurisdiction to receive Written Notice as herein described shall not invalidate such proceedings.
- f) The Petitioner or his representative shall appear at the Public Hearing to present evidence concerning the Re-Zoning Petition;
- g) A Public Hearing on a Re-Zoning Petition shall be held by the Planning Commission within thirty (30) days after the submission of the completed Re-Zoning Petition to the Zoning Administrator. Notice of the Public Hearing shall be Published in the Official Newspaper not less than ten (10) days nor more than thirty (30) days prior to the date of the Public Hearing.
- h) The Planning Commission shall submit a Re-Zoning Petition Report and Recommendation, along with findings of fact, to the Town Board, at the next Regular Meeting of the Town Board following the Public Hearing recommending approval,

disapproval, or modified approval of the request as provided in the Re-Zoning Petition;

- i) Within sixty (60) days after the submission of the complete Re-Zoning Petition by the Petitioner to the Zoning Administrator or within sixty (60) days of resubmission of the Re-Zoning Petition by the Petitioner to the Zoning Administrator if further information was requested by the Zoning Administrator as provided in Section 720.4(b), the Town Board shall:
  - 1) Approve or disapprove the request pursuant to the Re-Zoning Petition Report and Recommendation and findings of fact submitted by the Planning Commission; or
  - 2) Approve or disapprove the Re-Zoning Petition Report and Recommendation and findings of fact of the Planning Commission with modifications, alterations or differing conditions. Such modifications or differing conditions shall be in writing and made part of the Town Board's records; or
  - 3) Refer the Re-Zoning Petition Report and Recommendation and findings of fact back to the Planning Commission for further consideration. This procedure shall be followed only one time on a singular action.
- j) The Town Board, Planning Commission or Zoning Administrator may extend the time limit as provided in 720.4(i) if before the end of the initial sixty (60) day period the Town Board, Planning Commission or Zoning Administrator provides Written Notice of the extension to the Petitioner stating the reasons for the extension and its anticipated length, which may not exceed an additional sixty (60) days unless approved by the Petitioner.
- k) Approval of any Re-Zoning Petition shall require passage by a 2/3rds vote of the full Town Board. The Town Clerk shall notify the Petitioner and the Owner of the Town Board's action in accordance with the time frame as provided in Section 720.4 herein.
- l) In the event a Re-Zoning Petition is denied, no Re-Zoning Petition affecting the same Lots and/or Parcels and proposing a Re-Zoning of a substantially same or similar nature as that which was initially proposed in the denied Re-Zoning Petition may be resubmitted by any Petitioner for a period of six (6) months from the date of said order of denial, unless said Petitioner can demonstrate a clear

showing of new evidence and/or change in circumstances impacting said Re-Zoning Petition.

720.5 Title and Execution. The approval of the Re-Zoning Petition shall result in an Ordinance Amendment that shall be executed by the Chair of the Town Board and attested by the Town Clerk. The Ordinance Amendment shall have a title and be numbered in accordance with Chapter 140 of this Ordinance and shall begin with “The Board of Supervisors of the Town of Ford ordains:”.

720.6 Publication. The Ordinance Amendment resulting from any approved Re-Zoning Petition shall be Published by the Town Clerk once in the Official Newspaper in accordance with the provisions of this Section:

- a) The text of the Ordinance Amendment shall be in body type no smaller than brevier or 8-point type.
- b) The whole Ordinance Amendment shall be Published unless the Board decides that Publishing the Re-Zoning Petition’s title and a summary of it clearly tells the public of its intent and effect.
- c) If a summary of the Ordinance Amendment is to be Published, the Board must approve Publishing only the title and a summary as well as approve the words in the summary by a two-thirds vote. A notice must be Published with the summary stating that a printed copy of the whole Ordinance Amendment is available for inspection by any Person during the Town Clerk's regular office hours and at another named place. The Publishing of the title and summary is legally the same as Publishing the Ordinance Amendment. The Board shall not approve the Publication of the title and summary as provided in this Section unless the Town Clerk maintains regular office hours.

720.7 Posting. A copy of the whole Ordinance Amendment resulting from any approved Re-Zoning Petition shall be posted by the Town Clerk in the East Central Regional Library (Mora Public Library) and Kanabec County Law Library in accordance with Minn. Stat. §§365.125 and 415.021.

720.8 Recording in Town’s Ordinance Book. Any Ordinance Amendment resulting from an approved Re-Zoning Petition shall be recorded in the Town’s Ordinance Book by the Town Clerk within twenty (20) days after the Ordinance Amendment, or its title and summary, is Published. Proof of Publication shall be attached to the recorded Ordinance Amendment.

720.9 Recording with County Recorder. A certified copy of any Ordinance Amendment resulting from an approved Re-Zoning Petition shall be filed

by the Town Clerk with the Kanabec County Recorder within twenty (20) days after the Ordinance Amendment, or its title and summary, is Published. Proof of Publication shall be attached to the recorded Ordinance Amendment and accompanying Re-Zoning Petition.

**[END OF CHAPTER 720]**

## **Chapter 730. Ordinance Amendments.**

730.1 Introduction to Chapter. An Ordinance Amendment Petition may be initiated by the Town Board, the Planning Commission or by any Owner of any Lot and/or Parcel in the Town. An amendment to the Zoning Map may be initiated by the Town Board or the Planning Commission pursuant to this Chapter. An amendment to the Zoning Map may be initiated by an Owner of any Lot and/or Parcel in the Town by filing with the Zoning Administrator a Re-Zoning Petition and filing fee in accordance with the provisions of Chapter 720 of this Ordinance.

730.2 Petition. An Ordinance Amendment Petition submitted by an Owner, which shall not be deemed properly submitted unless executed by both the Owner and Petitioner, shall be made to the Zoning Administrator together with all required filing fees. The Ordinance Amendment Petition shall be accompanied by such information necessary to demonstrate to the Zoning Administrator compliance with this Ordinance, including but not limited to the following, if applicable:

- a) Street location of the Lot and/or Parcel;
- b) Address of the Lot and/or Parcel;
- c) Name, address, phone number of the Owner and Petitioner;
- d) Legal Description of the Lot and/or Parcel;
- e) Existing and proposed easements;
- f) Gross Acreage of the Lot and/or Parcel;
- g) Detailed description of the request and reason for the request for an Ordinance Amendment;
- h) A statement and explanation as to how the Ordinance Amendment Petition is consistent with the Town's Comprehensive Plan;
- i) Site plan drawn to a minimum scale of 1" = 100 feet or other scale to be approved by the Zoning Administrator showing the Lot and/or Parcel and Building dimensions, including square footage, with accurate measurements and location of all existing and proposed Buildings and improvements on the subject Lot and/or Parcel, together with all Setbacks from the Lot Lines and Public Road Right-of-Way;

- j) Driveways, Access Roads, Parking Spaces, Off-Street Parking and Loading Areas;
- k) A parking plan describing the number of Parking Spaces, traffic patterns and parking access;
- l) Landscaping, Fencing and screening plans;
- m) Drainage Plan, including a written statement as to the potential effect on adjacent Lots and/or Parcels and SWPPP;
- n) Description of the material proposed to complete the exterior of the Building and/or Structure;
- o) Description of any proposed lighting to be used, and the potential effect of said lighting on adjacent Lots and Parcels;
- p) Septic system and well location with estimated use per day;
- q) Utility plan, including, but not limited to, the types of utilities existing and/or proposed (telephone lines, power lines, DSL lines, cable, gas lines, outdoor propane tanks, garbage/refuse receptacles, etc) and the location and/or proposed location of said utility lines;
- r) Description of any Signage;
- s) Soil type; and
- t) Any additional written or graphic data reasonably required by the Zoning Administrator, Town Board or Planning Commission.

730.3 Criteria for Granting Ordinance Amendment Petition. In recommending approval of an Ordinance Amendment Petition, the Zoning Administrator and the Planning Commission shall consider the effect of the proposed Ordinance Amendment Petition upon the health, safety, morals, and general welfare of occupants of surrounding Lots and/or Parcels and water bodies. The following criteria shall be considered (1) by the Zoning Administrator in making its Ordinance Amendment Report and Recommendations; and (2) by the Planning Commission at the Public Hearing and in making its Ordinance Amendment Report and Recommendation and findings of fact provided to the Town Board; and (3) by the Town Board in its findings of fact when determining the whether to approve or deny an Ordinance Amendment Petition :

- a) The Ordinance Amendment will not create an excessive burden on existing Public Roads and other public facilities and/or Essential

Services which serve or are proposed to serve the affected Lots and/or Parcels;

- b) The Lots affected by the Ordinance Amendment Petition will be sufficiently compatible or separated by distance or screening from adjacent Agricultural Land Uses or Residential Land Uses so that existing Residential Dwellings will not be depreciated in value and there will be no deterrence to development of vacant land;
- c) Any allowed Structure and Use will not have an adverse effect upon or be injurious to the Use and enjoyment of adjacent Lots and/or Parcels;
- d) The Ordinance Amendment Petition is consistent with the purpose of this Ordinance and with the purpose of the Zoning District to which said Ordinance Amendment Petition applies;
- e) The Ordinance Amendment Petition is not in conflict with the Comprehensive Plan of the Town;
- f) Adequate utilities, Access Roads, drainage and other necessary facilities have been or will be sufficient;
- g) Adequate measures have been or will be taken to provide sufficient Off-Street Parking and Loading Area to serve any Lot and/or Parcel affected by the Ordinance Amendment Petition;
- h) The Ordinance Amendment will not result in the omission of offensive odor, fumes, dust, noise, and vibration, and allowed control lighted Signs and other lights will not disturb adjacent or neighboring Lots and/or Parcels;
- i) Proper facilities are available to mitigate any traffic congestion and/or traffic hazard which may result from the Ordinance Amendment;
- j) A demonstrated need for the Ordinance Amendment Petition can be shown;
- k) The Ordinance Amendment does not effect the health, safety and/or general welfare of the citizens of the Town; and
- l) The Ordinance Amendment will not result in any soil erosion or other possible pollution of public waters, both during and after construction.

730.4 Procedure.

- a) Except for an Ordinance Amendment Petition initiated by the Planning Commission or Town Board, an Ordinance Amendment Petition will not be accepted unless executed by both the Owner and the Petitioner of the Lot and/or Parcel for which the Ordinance Amendment Petition is made.
- b) The Zoning Administrator shall review any Ordinance Amendment Petition to determine if the Ordinance Amendment Petition is complete. If said Ordinance Amendment Petition is not complete, the Zoning Administrator shall, within fifteen (15) business days of the submission of the Ordinance Amendment Petition, request any and all missing information from the Petitioner. For purposes of this Chapter 730, an Ordinance Amendment Petition shall be considered complete if:
  - 1) said Ordinance Amendment Petition contains all information as required pursuant to Section 730.2 above; or
  - 2) said Ordinance Amendment Petition contains less than all information as required pursuant to Section 730.2 above, but the Zoning Administrator determines that certain requirements as contained in Section 730.2 are inapplicable and/or unnecessary, and deems the Ordinance Amendment Petition complete nonetheless; or
  - 3) the fifteen (15) day review period as described in Section 720.4(b) above expires without the Zoning Administrator submitting to Petitioner a request for additional and/or missing information.

The above notwithstanding, no Ordinance Amendment Petition shall be deemed complete unless and until the Petitioner has provided the Zoning Administrator with fifteen (15) copies of said complete Ordinance Amendment Petition, inclusive of any and all site plans and any other supporting documentation. The Petitioner shall provide any oversized plans to the Zoning Administrator in a folded form and submit fifteen (15) additional copies of any such oversized plans in a size not to exceed 11 x 17.

- c) Any Ordinance Amendment Petition not initiated by the Planning Commission, including those Ordinance Amendment Petitions initiated by the Town Board, shall be referred to the Planning Commission by the Zoning Administrator for review and a Public Hearing along with all information relating thereto, including the

Zoning Administrator's Ordinance Amendment Report and Recommendation and findings of fact evaluating the Petitioner's compliance with Section 730.3 of this Chapter, and may not be acted upon by the Town Board until it has received the Planning Commission's recommendations.

- d) Written Notice of a Public Hearing on any proposed Ordinance Amendment Petition shall be sent by the Town Clerk to all members of the Town Board and all members of the Planning Commission, as well as to the Owner of the subject Lot and/or Parcel and to the Petitioner.
- e) If the Ordinance Amendment Petition involves changes in Zoning District boundaries affecting an area of five (5) Acres or less, a Written Notice shall be mailed at least ten (10) days in advance of the date of the Public Hearing by the Town Clerk to each Owner of Record of any affected Lot and/or Parcel as well as to the Owner of Record of any Lot and/or Parcel situated wholly or partly within three-hundred-fifty (350) feet of the Lot and/or Parcel to which the Ordinance Amendment relates. Written Notice by the Town Clerk shall also be provided to the governing body of any jurisdiction within two miles of the specific Lot and/or Parcel to be affected by the proposed Ordinance Amendment. Failure of an Owner or neighboring jurisdiction to receive Written Notice as herein described shall not invalidate such proceedings.
- f) The Petitioner or his representative shall appear at the Public Hearing to present evidence concerning the Ordinance Amendment Petition;
- g) A Public Hearing on an Ordinance Amendment Petition shall be held by the Planning Commission within thirty (30) days after the submission of the completed Ordinance Amendment Petition to the Zoning Administrator. Notice of the Public Hearing shall be Published in the Official Newspaper by the Town Clerk not less than ten (10) days nor more than thirty (30) days prior to the date of the Public Hearing.
- h) The Planning Commission shall make an Ordinance Amendment Report and Recommendation to the Town Board, along with findings of fact, at the next Regular Meeting of the Town Board following the Public Hearing recommending approval, disapproval, or modified approval of the request as provided in the Ordinance Amendment Petition;

- i) Within sixty (60) days after the submission of the complete Ordinance Amendment Petition by the Petitioner to the Zoning Administrator or within sixty (60) days of resubmission of the Ordinance Amendment Petition by the Petitioner to the Zoning Administrator if further information was requested by the Zoning Administrator as provided in Section 730.4(b), the Town Board shall:
  - 1) Approve or disapprove the request pursuant to the Ordinance Amendment Report and Recommendation and findings of fact submitted by the Planning Commission; or
  - 2) Approve or disapprove the Ordinance Amendment Report and Recommendation and findings of fact of the Planning Commission with modifications, alterations or differing conditions. Such modifications or differing conditions shall be in writing and made part of the Town Board's records; or
  - 3) Refer the Ordinance Amendment Report and Recommendation and findings of fact back to the Planning Commission for further consideration. This procedure shall be followed only one time on a singular action.
- j) The Town Board, Planning Commission or Zoning Administrator may extend the time limit as provided in 730.4(i) if before the end of the initial sixty (60) day period the Town Board, Planning Commission or Zoning Administrator provides Written Notice of the extension to the Petitioner stating the reasons for the extension and its anticipated length, which may not exceed an additional sixty (60) days unless approved by the Petitioner.
- k) Approval of any Ordinance Amendment shall require passage by a 2/3rds vote of the full Town Board.
- l) The Town Clerk shall notify the Petitioner and Owner of the Town Board's action in accordance with the time frame as provided in Section 730.4 herein.
- m) In the event a Ordinance Amendment Petition is denied, no Ordinance Amendment Petition of a substantially same or similar nature as that which was initially proposed in the denied Ordinance Amendment Petition may be resubmitted by any Petitioner for a period of six (6) months from the date of said order of denial, unless said Petitioner can demonstrate a clear showing of new

evidence and/or change in circumstances impacting said Ordinance Amendment Petition.

- 730.5 Title and Execution. The Ordinance Amendment shall be executed by the Chair of the Town Board and attested by the Town Clerk. The Ordinance Amendment shall have a title and be numbered in accordance with Chapter 140 of this Ordinance and shall begin with “The Board of Supervisors of the Town of Ford ordains:”.
- 730.6 Publication. The Ordinance Amendment shall be Published by the Town Clerk once in the Official Newspaper in accordance with the provisions of this Section:
- a) The text of the Ordinance Amendment shall be in body type no smaller than brevier or 8-point type.
  - b) The whole Ordinance Amendment shall be Published unless the Board decides that Publishing the Ordinance Amendment’s title and a summary of it clearly tells the public of its intent and effect.
  - c) If a summary of the Ordinance Amendment is to be Published, the Board must approve Publishing only the title and a summary as well as approve the words in the summary by a two-thirds vote. A notice must be Published with the summary stating that a printed copy of the whole Ordinance Amendment is available for inspection by any Person during the Town Clerk's regular office hours and at another named place. The Publishing of the title and summary is legally the same as Publishing the Ordinance Amendment. The Board shall not approve the Publication of the title and summary as provided in this Section unless the Town Clerk maintains regular office hours.
- 730.7 Posting. A copy of the whole Ordinance Amendment shall be posted by the Town Clerk in the East Central Regional Library (Mora Public Library) and Kanabec County Law Library in accordance with Minn. Stat. §§365.125 and 415.021.
- 730.8 Recording in Town’s Ordinance Book. An Ordinance Amendment shall be recorded in the Town’s Ordinance Book by the Town Clerk within twenty (20) days after the Ordinance Amendment, or its title and summary, is Published. Proof of Publication shall be attached to the recorded Ordinance Amendment.
- 730.9 Recording with County Recorder. A certified copy of any Ordinance Amendment shall be filed with the Kanabec County Recorder by the Town Clerk within twenty (20) days after the Ordinance Amendment, or

its title and summary, is Published. Proof of Publication shall be attached to the recorded Ordinance Amendment.

**[END OF CHAPTER 730]**

## **Chapter 740. Administrative Appeals.**

740.1 Introduction to Chapter. Except for decisions issued by the Planning Commission and/or the Town Board, a Petitioner or an Applicant may appeal any administrative denial of a permit, submission, Subdivision, or Use of a Lot and/or Parcel, including, but not limited to, any denial by the Zoning Administrator to accept as complete any submissions and/or resubmissions of a Conditional Use Permit Application, Variance Application, Re-Zoning Petition, Ordinance Amendment Petition and/or a Petition for Administrative Appeal, denial of an Exemption Certificate Application, and/or any decision by the Township Engineer, by the submission to the Zoning Administrator of a Petition for Administrative Appeal in accordance with the provisions of this Chapter.

740.2 Petition. A Petition for Administrative Appeal, which shall not be deemed properly submitted unless executed by the Owner and Petitioner, shall be made to the Zoning Administrator together with all required filing fees within thirty (30) days after the denial, order, requirement, decision or determination appealed from is issued. The Petition for Administrative Appeal shall be accompanied by a copy of the original petition and/or application from which the denial, order, requirement, decision and/or determination arose, together with any and all information setting forth, with specificity, the Applicant and/or Petitioner's grounds for an Administrative Appeal.

740.3 Procedure.

- a) The Petitioner submitting a Petition for Administrative Appeal shall fill out and submit to the Zoning Administrator a Petition for Administrative Appeal and shall schedule an appointment to review said Petition for Administrative Appeal with the Zoning Administrator upon submission thereof.
- b) Upon submission, the Zoning Administrator shall review the Petition for Administrative Appeal with the Petitioner to determine if the Petition for Administrative Appeal is complete. If said Petition for Administrative Appeal is not complete, the Zoning Administrator shall, within fifteen (15) business days of the submission of the Petition for Administrative Appeal, request any and all missing information from the Petitioner. For purposes of this Chapter 740, a Petition for Administrative Appeal shall be considered complete if:
  - 1) said Petition for Administrative Appeal contains all information as required pursuant to Section 740.2 above; or

- 2) said Petition for Administrative Appeal contains less than all information as required pursuant to Section 740.2 above, but the Zoning Administrator determines that certain requirements as contained in Section 740.2 are inapplicable and/or unnecessary, and deems the Petition for Administrative Appeal complete nonetheless; or
- 3) the fifteen (15) day review period as described in Section 740.3(b) above expires without the Zoning Administrator submitting to Petitioner a request for additional and/or missing information.

The above notwithstanding, no Petition for Administrative Appeal shall be deemed complete unless and until the Petitioner has provided the Zoning Administrator with fifteen (15) copies of said complete Petition for Administrative Appeal, inclusive of any and all supporting documentation. The Petitioner shall provide any oversized plans to the Zoning Administrator in a folded form and submit fifteen (15) additional copies of any such oversized plans in a size not to exceed 11 x 17.

- c) Upon submission of a complete Petition for Administrative Appeal, the Zoning Administrator shall refer the completed Petition for Administrative Appeal, along with all related information, including findings of fact as determined by said Zoning Administrator, to the Planning Commission acting in an advisory role to the Board of Adjustment and Appeals. The Zoning Administrator shall cause the Town Clerk to add the Public Hearing for said completed Petition for Administrative Appeal to the Planning Commission's agenda no later than the date by which said completed Petition for Administrative Appeal is submitted to the Planning Commission for review.
- d) No Petition for Administrative Appeal may be acted upon by the Board of Adjustment and Appeals until the Board of Adjustment and Appeals has received the Planning Commission's recommendations thereon.
- e) Written Notice of a Public Hearing on any complete Petition for Administrative Appeal shall be sent by the Town Clerk to the all members of the Board of Adjustment and Appeals and to all members of the Planning Commission not less than ten (10) days prior to the date of the Public Hearing, as well as to the Petitioner and/or the Owner of the affected Lot and/or Parcel. Such Written Notice shall be accompanied by copies of the completed Petition for Administrative Appeal.

- f) Written Notice of a Public Hearing shall be provided by the Town Clerk to Owners of Record within one quarter (1/4) mile of the affected Lot and/or Parcel, or to the ten Owners of Lots and/Parcels nearest to the affected Lot and/or Parcel, whichever would provide Written Notice to the greatest number of Owners of Record as well as the Owner and Petitioner of the affected Lot and/or Parcel, not less than ten (10) days nor more than thirty (30) days prior to the date of the Public Hearing. Failure of an Owner of Record to receive Written Notice shall not invalidate such proceedings.
- g) A Public Hearing on a complete Petition for Administrative Appeal shall be held by the Planning Commission within thirty (30) days after the submission of the complete Petition for Administrative Appeal to the Zoning Administrator. Notice of the Public Hearing shall be Published by the Town Clerk in the Official Newspaper designated by the Town Board at least ten (10) days prior to the Public Hearing.
- h) In accordance with Minnesota Statute § 462.354, subd. 2, the Board of Adjustment and Appeals grants the Planning Commission the authority to provide for the giving of oaths to witnesses and for the filing of written briefs by the relevant parties for purposes of conducting Petition for Administrative Appeal Public Hearings. As such, the Planning Commission shall require that each Petitioner in such a proceeding, in addition to the information required to be included in the completed Petition for Administrative Appeal documents, submit a detailed explanation further outlining and defending his and/or her position that the denial, order, requirement, decision or determination from which the Petitioner is appealing was decided in error. The Planning Commission shall allow, but shall not require, the Administrative Officer responsible for issuing said denial, order, requirement, decision or determination to submit a detailed explanation setting forth his and/or her justification for said denial, order, requirement, decision or determination from which Petitioner is appealing.
- i) The Owner, Petitioner or representative thereof shall appear before the Planning Commission at the Public Hearing in order to present evidence concerning the Petition for Administrative Appeal.
- j) The Planning Commission may recommend the imposing of conditions on the granting of any Petition for Administrative Appeal to insure compliance with this Ordinance, and to protect adjacent Lots and/or Parcels and the public interest. The Board of

Adjustment and Appeals may place additional conditions upon the issuance of a Petition for Administrative Appeal above and beyond those conditions, if any, suggested by the Planning Commission.

- k) The Planning Commission and/or Zoning Administrator shall have the authority to request additional information from the Petitioner, above and beyond the information required to be provided pursuant to Section 740.2 above, concerning the Petitioner for Administrative Appeal as may be necessary in making any determination thereon. In addition, if in the discretion of the Planning Commission and/or the Board of Adjustment and Appeals, further information is required in making any determination with respect to any Petition for Administrative Appeal, either the Planning Commission and/or the Board of Adjustment and Appeals shall have the authority to retain third-party expert testimony at the expense of the Petitioner concerning the impact of the Petition for Administrative Appeal and/or regarding any other factors relating thereto.
  
- l) Following the Public Hearing, the Planning Commission shall submit a Petition for Administrative Appeal Report and Recommendation, along with findings of fact, to the Board of Adjustment and Appeals including any additional conditions it considers necessary to protect the public health, safety and welfare. The Town Board, acting as the Board of Adjustment and Appeals, shall place the Administrative Appeal Report and Recommendation and the Planning Commission's findings of fact on the Town Board Agenda for the next Regular Meeting of the Town Board, sitting as the Board of Adjustment and Appeals, following the Public Hearing recommending approval, disapproval, or modified approval of the request as provided in the Petition for Administrative Appeal. Such Petition for Administrative Appeal Report and Recommendation and the corresponding findings of fact submitted by the Planning Commission shall be entered in and made a part of the written record of the Board of Adjustment and Appeals' meeting at which said Petition for Administrative Appeal is discussed and reviewed.
  
- m) Within sixty (60) days after the submission of the completed Petition for Administrative Appeal by the Petitioner to the Zoning Administrator or within sixty (60) days of resubmission of the Petition for Administrative Appeal by the Petitioner to the Zoning Administrator if further information was requested by the Zoning Administrator as provided in Section 740.3(b), the Board of Adjustment and Appeals shall:

- 1) Approve or disapprove the request pursuant to the Petition for Administrative Appeal Report and Recommendation and findings of fact submitted to it by the Planning Commission; or
  - 2) Approve or disapprove the Petition for Administrative Appeal Report and Recommendation and findings of fact of the Planning Commission with modifications, alterations or differing conditions. Such modifications or differing conditions shall be in writing and made part of the Board of Adjustment and Appeals' records; or
  - 3) Refer the Petition for Administrative Appeal Report and Recommendation and findings of fact back to the Planning Commission for further consideration. This procedure shall be followed only one time on a singular action.
- n) The Board of Adjustment and Appeals, Planning Commission or Zoning Administrator may extend the time limit as provided in 740.3(m) if before the end of the initial sixty (60) day period the Board of Adjustment and Appeals, Planning Commission or Zoning Administrator provides Written Notice of the extension to the Petitioner stating the reasons for the extension and its anticipated length, which may not exceed an additional sixty (60) days unless approved by the Petitioner.
- o) Approval of completed Petition for Administrative Appeals shall require passage by a 2/3rds vote of the full Board of Adjustment and Appeals. The Town Clerk shall notify the Petitioner and/or Owner of the Board of Adjustment and Appeals' action in accordance with the time frame as provided in Section 740.3 herein.
- p) The decisions of the Board of Adjustment and Appeals shall be subject to judicial review.
- 740.4 Criteria for Review. In determining whether or not to affirm or reject a denial, order, requirement, decision or determination in accordance with this Chapter 740, the Board of Adjustment and Appeals shall seek to ensure that any such affirmation or rejection ensures continued adherence and compliance with and to all aspects and requirements set forth in this Ordinance.

**[END OF CHAPTER 740)**

**Chapter 750. Site Permits.**

750.1 Introduction. No Person may erect, construct, alter, or relocate any Building or Structure without obtaining approval of a Site Permit Application from the Zoning Administrator.

750.2 Application. A Site Permit Application, which shall not be deemed properly submitted unless executed by both the Owner of the subject Lot and/or Parcel and the Applicant, shall be made to the Zoning Administrator together with all required fees. The Site Permit Application shall be accompanied by a site plan providing information as is necessary to demonstrate compliance with this Ordinance, including but not limited to:

- a) Street location of the Lot and/or Parcel;
- b) Name, address, phone number of the Owner and Applicant;
- c) Legal Description of the Lot and/or Parcel;
- d) Existing and proposed easements;
- e) Gross Acreage of the Lot and/or Parcel;
- f) Detailed description as to the number of man hours reasonably estimated as necessary for completion of the project giving rise to the proposed Site Permit Application;
- g) Site plan drawn to a minimum scale of 1" = 100 feet, or other scale to be approved by the Zoning Administrator, showing the Lot and/or Parcel and Building dimensions, including square footage, with accurate measurements and location of all existing and proposed Buildings and improvements on the subject Lot and/or Parcel, together with all Setbacks from the Lot Lines and Public Road Right-of-Way;
- h) Driveways, Access Roads, Parking Spaces, Off-Street Parking and Loading Areas;
- i) A parking plan describing the number of Parking Spaces, traffic patterns and parking access;
- j) Landscaping, Fences and screening plans;

- k) Drainage Plan, including a written statement as to the potential effect on adjacent Lots and/or Parcels and SWPPP;
- l) Description of the material proposed to complete the exterior of the Building and/or Structure;
- m) Description of any proposed lighting to be used, and the potential effect of said lighting on adjacent Lots and/or Parcels;
- n) Septic system and well location with estimated use per day;
- o) Utility plan, including, but not limited to, the types of utilities existing and/or proposed (telephone lines, power lines, DSL lines, cable, gas lines, outdoor propane tanks, garbage/refuse receptacles, etc.) and the location and/or proposed location of said utility lines;
- p) Description of any Signage;
- q) Soil type; and
- r) Any additional written or graphic data reasonably required by the Zoning Administrator.

750.3 Procedure.

- a) The Person applying for a Site Permit shall fill out and submit to the Zoning Administrator a Site Permit Application form and filing fee;
- b) Site Permit Applications shall be executed by the Owner of the affected Lot and/or Parcel and the Applicant;
- c) Upon submission, the Zoning Administrator shall review the Site Permit Application with the Applicant to determine if the Site Permit Application is complete. If said Site Permit Application is not complete, the Zoning Administrator shall, within fifteen (15) business days of the submission of the Site Permit Application, request any and all missing information from the Applicant. For purposes of this Chapter 750, a Site Permit Application shall be considered complete if:
  - 1) said Site Permit Application contains all information as required pursuant to Section 750.2 above; or
  - 2) said Site Permit Application contains less than all information as required pursuant to Section 750.2 above,

but the Zoning Administrator determines that certain requirements as contained in Section 750.2 are inapplicable and/or unnecessary, and deems the Site Permit Application complete nonetheless; or

- 3) the fifteen (15) day review period as described in Section 750.3(c) above expires without the Zoning Administrator submitting to Applicant a request for additional and/or missing information.

The above notwithstanding, no Site Permit Application shall be deemed complete unless and until the Applicant has provided the Zoning Administrator with five (5) copies of said complete Site Permit Application, inclusive of any and all site plans and any other supporting documentation. The Applicant shall provide any oversized plans to the Zoning Administrator in a folded form and submit five (5) additional copies of any such oversized plans in a size not to exceed 11 x 17.

- d) Approval of Site Permit. The Zoning Administrator shall examine and approve the Site Permit Application and issue a Site Permit, if any only if, the proposed plans, as provided in the Site Permit Application, comply with all the provisions of this Ordinance. The Zoning Administrator's determination as provided herein shall be made within sixty (60) days of the submission of the Site Permit Application to the Zoning Administrator. The Zoning Administrator may extend the time limit as provided herein if, before the end of the initial sixty (60) day period, the Zoning Administrator provides Written Notice of the extension to the Applicant stating the reasons for the extension and its anticipated length, which may not exceed an additional sixty (60) days unless approved by the Applicant. One (1) copy of the Site Permit Application, together with any and all site plans and other supporting documentation shall be retained by the Zoning Administrator and one (1) copy shall be retained by the Town Clerk in the Town's Permit Book as public information. The Zoning Administrator shall sign all Site Permits.
- e) Refusal to Issue Permits. The Zoning Administrator shall refuse to approve any Site Permit Application or issue a Site Permit in the following cases:
  - 1) Where the Site Permit Application and other submitted information as required pursuant to Section 750.2 indicate that the proposed work is not in accordance with the provisions of this Ordinance; or

- 2) Where necessary grading incidental to the proposed construction will obstruct any natural drainage waterway; or
- 3) Where the relative elevations of the proposed building grade and the established road grade conflict in a manner likely to cause damage to the subject Lot and/or Parcel or to any other Lots and/or Parcels in the Town; or
- 4) Where the proposed construction is too low for proper drainage.

The Zoning Administrator shall provide written findings of fact to the Applicant for any Site Permits that the Zoning Administrator refuses to approve.

- f) Inspection. Prior to the commencement of the erection, construction, alteration, or relocation of any Building or Structure, the Applicant shall stake the location of any and all proposed improvements to the Lot and/or Parcel as well as any and all Lot Lines so that the Zoning Administrator may inspect the Lot and/or Parcel to determine whether the proposed erection, construction, alteration or relocation of the proposed Building and/or Structure complies with the requirements of this Ordinance.
- g) Granted Site Permits shall become void if Applicant does not proceed substantially on the work contemplated pursuant to the Site Permit Application within six (6) months of the granting of said Site Permit. To proceed substantially means to make visible improvements to the Lot and/or Parcel and to have had applied to the Lot and/or Parcel at least forty percent (40%) of the labor hours which it was reasonably estimated would be necessary for completion of the project. One or more extensions for not more than six (6) months each may be granted by the Town Board for good cause, as determined after a review and recommendation by the Planning Commission to the Town Board.

**[END OF CHAPTER 750]**

**Chapter 751. Exemption Permits.**

751.1 Introduction to Chapter. Exemption Permits may be granted to exempt certain Uses within a Zoning District where the proposed Exempted Use meets all of the requirements of this Ordinance or can, with appropriate conditions attached, meet the requirements of this Ordinance.

751.2 Application. An Exemption Permit Application, which shall not be deemed properly submitted unless executed by both the Owner of the subject Lot and/or Parcel and the Applicant, shall be made to the Zoning Administrator together with all required fees. The Exemption Permit Application shall be accompanied by a site plan providing such information as is necessary to demonstrate compliance with this Ordinance, including but not limited to:

- a) Street location of the Lot and/or Parcel;
- b) Name, address, phone number of the Owner and Applicant;
- c) Legal Description of the Lot and/or Parcel;
- d) Existing and proposed easements;
- e) Gross Acreage of the Lot and/or Parcel;
- f) A statement and explanation as to how the Exemption Permit Application is consistent with the Town's Comprehensive Plan;
- g) Detailed description of the request and reason for the request for an Exempted Use;
- h) Site plan drawn to a minimum scale of 1" = 100 feet, or other scale to be approved by the Zoning Administrator, showing the Lot and/or Parcel and Building dimensions, including square footage, with accurate measurements and location of all existing and proposed Buildings and improvements on the subject Lot and/or Parcel, together with all Setbacks from the Lot Lines and Public Road Right-of-Way;
- i) Driveways, Access Roads, Parking Spaces, Off-Street Parking and Loading Areas;
- j) A parking plan describing the number of Parking Spaces, traffic patterns and parking access;
- k) Landscaping, Fencing and Screening plans;

- l) Drainage Plan, including a written statement as to the potential effect on adjacent Lots and Parcels and SWPPP;
- m) Description of any Buildings and/or Structures, including the lighting used thereon, and the potential effect of said lighting on adjacent Lots and Parcels;
- n) Septic system and well location with estimated use per day;
- o) Utility plan, including, but not limited to, the types of utilities existing and/or proposed (telephone lines, power lines, DSL lines, cable, gas lines, outdoor propane tanks, garbage/refuse receptacles, etc) and the location and/or proposed location of said utility lines;
- p) Description of any Signage;
- q) Soil type; and
- r) Any additional written or graphic data reasonably required by the Zoning Administrator, Town Board or Planning Commission.

751.3 Criteria for Granting Exemption Permits. In recommending approval of an Exemption Permit Application, the Zoning Administrator and the Planning Commission shall consider the effect of the proposed Exempted Use upon the health, safety, morals, property values, and general welfare of occupants of surrounding Lots and/or Parcels and water bodies. The following criteria shall be considered (1) by the Zoning Administrator in making its Exemption Permit Report and Recommendations; and (2) by the Planning Commission at the Public Hearing and in making its Exemption Permit Report and Recommendation and findings of fact provided to the Town Board; and (3) by the Town Board in its findings of fact when determining the issuance of a Exemption Permit:

- a) The proposed Exempted Use is not prohibited in the Zoning District in which the relevant Lot and/or Parcel is located;
- b) The Exemption Permit must be in harmony with the general purpose and intent of this Ordinance;
- c) The Exemption Permit must not be substantially detrimental to the public welfare or to other adjacent Lots and/or Parcels;
- d) The Exemption Permit will not create an excessive burden on existing Public Roads and other public facilities and/or Essential

Services which serve or are proposed to serve the affected Lot and/or Parcel and other Lots and/or Parcels adjacent thereto;

- e) The proposed Exempted Use will be sufficiently compatible with adjacent Agricultural Land Uses or Residential Land Uses so that existing Residential Dwellings will not be depreciated in value and there will be no deterrence to Development of vacant land;
- f) The Exemption Permit is necessary because Screening is impossible or impractical, given the totality of the circumstances and due the nature of the Lot and/or Parcel itself and the Uses performed thereon;
- g) The Structures and the Lot and/or Parcel shall have an appearance that will not have an adverse effect upon or be injurious to the Use and enjoyment of the adjacent Lots and/or Parcels;
- h) The proposed Exempted Use, in the opinion of the Planning Commission, is reasonably related to the Existing Use of the Lot and/or Parcel upon which the proposed Exempted Use will occur;
- i) The Exemption Permit is consistent with the purpose of this Ordinance and the purpose of the Zoning District in which the Applicant intends to locate the proposed Exempted Use;
- j) The Exemption Permit is not in conflict with the Comprehensive Plan of the Town;
- k) 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 undue disturbance to neighboring Lots and/or Parcels will result;
- l) A demonstrated need for the proposed Exemption Permit can be shown; and
- m) Whether the proposed Exempted Use effects the health, safety and/or general welfare of the citizens of the Town.

#### 751.4 Procedure.

- a) The person applying for a Exemption Permit shall fill out and submit to the Zoning Administrator a Exemption Permit Application form and filing fee;

- b) Exemption Permit Applications shall be executed by the Owner of the subject Lot and/or Parcel and the Applicant;
- c) Upon submission, the Zoning Administrator shall review the Exemption Permit Application with the Applicant to determine if the Exemption Permit Application is complete. If said Exemption Permit Application is not complete, the Zoning Administrator shall, within fifteen (15) business days of the submission of the Exemption Permit Application, request any and all missing information from the Applicant. For purposes of this Chapter 751, a Exemption Permit Application shall be considered complete if:
  - 1) said Exemption Permit Application contains all information as required pursuant to Section 751.2 above; or
  - 2) said Exemption Permit Application contains less than all information as required pursuant to Section 751.2 above, but the Zoning Administrator determines that certain requirements as contained in Section 751.2 are inapplicable and/or unnecessary, and deems the Exemption Permit Application complete nonetheless; or
  - 3) the fifteen (15) day review period as described in Section 751.4(c) above expires without the Zoning Administrator submitting to Applicant a request for additional and/or missing information.

The above notwithstanding, no Exemption Permit Application shall be deemed complete unless and until the Applicant has provided the Zoning Administrator with fifteen (15) copies of said complete Exemption Permit Application, inclusive of any and all site plans and any other supporting documentation. The Applicant shall provide any oversized plans to the Zoning Administrator in a folded form and submit fifteen (15) additional copies of any such oversized plans in a size not to exceed 11 x 17.

- d) Any completed Exemption Permit Application shall be referred to the Planning Commission by the Zoning Administrator for review and a Public Hearing, along with all related information relating thereto, including the Zoning Administrator's Exemption Permit Report and Recommendation and findings of fact evaluating the Applicant's compliance with Section 751.3 of this Chapter. The Zoning Administrator shall cause the Town Clerk to add the Public Hearing to the Planning Commission's Agenda no later than the date by which said completed Exemption Permit Application is submitted to the Planning Commission for review. No Exemption

Permit Application may be acted upon by the Town Board until the Town Board has received the Planning Commission's recommendations thereon.

- e) Written Notice of a Public Hearing on any complete Exemption Permit Application shall be sent by the Town Clerk to all members of the Town Board and all members of the Planning Commission not less than ten (10) days prior to the date of the Public Hearing. Such Written Notice shall be accompanied by copies of the completed Exemption Permit Application.
- f) Written Notice of a Public Hearing shall be provided by the Town Clerk to Owners of Record within one quarter ( $\frac{1}{4}$ ) mile of the subject Lot and/or Parcel, or to the ten (10) Owners of Lots and/Parcels nearest to the subject Lot and/or Parcel, whichever would provide Written Notice to the greatest number of Owners of Record as well as the Applicant and the Owner of the subject Lot and/or Parcel, not less than ten (10) days nor more than thirty (30) days prior to the date of the Public Hearing. Failure of an Owner of Record to receive Written Notice shall not invalidate such proceedings;
- g) A Public Hearing on a complete Exemption Permit Application shall be held by the Planning Commission within thirty (30) days after the submission of the complete Exemption Permit Application to the Zoning Administrator. Notice of the Public Hearing shall be Published in the Official Newspaper at least ten (10) days prior to the Public Hearing;
- h) The Applicant or his representative shall appear at the Public Hearing to present evidence concerning the Exemption Permit Application;
- i) Following the Public Hearing, the Planning Commission shall submit a Exemption Permit Report and Recommendation, together with findings of fact, to the Town Board including any additional conditions it considers necessary to protect the public health, safety and welfare of the Town. The Town Board shall place the Exemption Permit Report and Recommendation and findings of fact on the Town Board Agenda for the next Regular Meeting of the Town Board following the Public Hearing recommending approval, disapproval, or modified approval of the request as provided in the Exemption Permit Application.
- j) Within sixty (60) days after the submission of the complete Exemption Permit Application by the Applicant to the Zoning

Administrator, or within sixty (60) days of resubmission of the Exemption Permit Application by the Applicant to the Zoning Administrator if further information was requested by the Zoning Administrator as provided in Section 751.4(c), the Town Board shall either:

- 1) Approve or disapprove the request pursuant to the Exemption Permit Report and Recommendation and findings of fact submitted to it by the Planning Commission; or
  - 2) Approve or disapprove the Exemption Permit Report and Recommendation and findings of fact of the Planning Commission with modifications, alterations or differing conditions. Such modifications or differing conditions shall be in writing and made part of the Town Board's records; or
  - 3) Refer the Exemption Permit Report and Recommendation findings of fact back to the Planning Commission for further consideration. This procedure shall be followed only one time on a singular action.
- k) The Town Board, Planning Commission or Zoning Administrator may extend the time limit as provided in 751.4(j) if, before the end of the initial sixty (60) day period, the Town Board, Planning Commission or Zoning Administrator provides Written Notice of the extension to the Applicant stating the reasons for the extension and its anticipated length, which may not exceed an additional sixty (60) days unless approved by the Applicant.
- l) Approval of a complete Exemption Permit Application shall require passage by a 2/3rds vote of the full Town Board. The Town Clerk shall notify the Applicant and the Owner of the Town Board's action in accordance with the time frame as provided in Section 751.4 herein.
- m) If the Town Board grants the Exemption Permit, it may impose conditions it considers necessary to protect the public health, safety and welfare of the Town. Such conditions may include a time limit for the Exemption Permit to exist or operate.
- n) An amended Exemption Permit Application shall be administered in a manner similar to that required for a new Exemption Permit Application. The fee shall be as set by separate action of the Town Board. Amended Exemption Permit Applications shall include

requests for changes in conditions and as otherwise described in this Ordinance.

- o) In the event a Exemption Permit Application is denied, no Exemption Permit Application affecting the same Lot and/or Parcel and proposing an Exempted Use of a substantially same or similar nature as that which was initially proposed in the denied Exemption Permit Application may be resubmitted by any Applicant for a period of six (6) months from the date of said order of denial, unless said Applicant can demonstrate a clear showing to the Zoning Administrator of new evidence and/or change in circumstances impacting said Exemption Permit Application.
- p) If a time limit or period review is included as a condition by which a Exemption Permit is granted, the Exemption Permit may be reviewed at a Public Hearing before the Planning Commission with Written Notice of said Public Hearing Published at least the ten (10) days prior to review; it shall be the responsibility of the Zoning Administrator to schedule such Public Hearings before the Planning Commission and neither the Applicant nor the Owner of the Lot and/or Parcel having a Exemption Permit shall be required to pay a fee for said review.
- q) A Public Hearing for annual review of any granted Exemption Permit may be required at the discretion of the Planning Commission or Town Board, even if said granted Exemption Permit does not explicitly require the performance of an annual review as a condition thereof.

751.5 Recording. A certified copy of any Exemption Permit shall be filed with the Kanabec County Recorder by the Town Clerk within thirty (30) days of approval thereof. The Exemption Permit shall include the Legal Description of the Lot and/or Parcel for which said Exemption Permit is granted.

751.6 Compliance. Any Exempted Use permitted under the terms of any Exemption Permit shall be established and conducted in conformity with the terms of such Exemption Permit as well as with any and all conditions connected to such Exemption Permit. If the actual Exempted Use of the Lot and/or Parcel does not conform to the conditions as set forth in the Exemption Permit, the Exemption Permit may be revoked in accordance with Section 751.7 below.

751.7 Revocation. Upon learning of a circumstance whereby the actual Exempted Use of a Lot and/or Parcel is not in conformance with the conditions set forth in a Exemption Permit affecting said Lot and/or

Parcel, the Zoning Administrator shall refer said Exemption Permit, along with any and all information relating thereto, including, but not limited to, any information purporting to show that the actual Exempted Use of the Lot and/or Parcel affected by said Exemption Permit is not being carried out in accordance therewith, to the Planning Commission for review and shall set the same for Public Hearing before the Planning Commission. A Public Hearing regarding said Exemption Permit shall be held by the Planning Commission within thirty (30) days of receipt of the same from the Zoning Administrator. Notice of the Public Hearing shall be Published in the Official Newspaper and Written Notice shall be provided to the Owner and Applicant at least ten (10) days prior to the Public Hearing. Subsequent to the Public Hearing, the Planning Commission shall place the Exemption Permit Revocation matter on the Town Board Agenda for the next Regular Meeting of the Town Board. The Town Board shall make its decision regarding said Exemption Permit Revocation matter within sixty (60) days from the date of the Public Hearing discussed in this Section 751.7. A decision to revoke a Exemption Permit shall require passage by a 2/3rds vote of the full Town Board. The Zoning Administrator or Town Clerk shall notify the Exemption Permit Applicant of Town Board's action accordingly. A certified copy of any Exemption Permit Revocation shall be filed with the Kanabec County Recorder by the Town Clerk within thirty (30) days of revocation thereof. The Exemption Permit Revocation shall include the Legal Description of the Lot and/or Parcel for which said Exemption Permit was revoked.

- 751.8 Lapse of Exemption Permit by Non-Use. If at any time after the grant of a Exemption Permit the Zoning Administrator determines that the permitted Exempted Use has lapsed for a period of time in excess of one year, then such Exemption Permit shall become null and void.

**[END OF CHAPTER 751]**