

BEMIDJI TOWNSHIP LAND USE  
ORDINANCE

AN ORDINANCE DIVIDING THE  
UNINCORPORATED AREAS OF  
BEMIDJI TOWNSHIP INTO DISTRICTS  
AND REGULATING AND  
RESTRICTING THE USES OF LAND IN  
SAID DISTRICTS

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AS AMENDED AND REVISED JUNE, 8, 2004 AS  
AMENDED AND REVISED FEBRUARY 11, 2014  
AS AMENDED AND REVISED JULY 3, 2017, AS  
AMENDED AND REVISED JUNE 11, 2019, AS  
AMENDED JULY 7, 2020

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**Article 1 - Purpose**

The purpose of this Ordinance is:

1. Protect the public health, safety, morals, comfort, convenience and general welfare.
2. Promote orderly development of the residential, commercial, industrial, recreational and public areas.
3. Conservation of the natural and scenic beauty and attractiveness of the Township.
4. Conservation and responsible development of natural resources.
5. Providing for the compatibility of different land uses and the most appropriate use of land throughout the Township.
6. Promote and protect agricultural areas.

**Article 2 - Jurisdiction**

This Ordinance shall apply to all unincorporated land within the boundaries of Bemidji Township, unless said land is under the jurisdiction of the Beltrami County Shore-land Ordinance (BSCO) or the Mississippi Headwaters Conservation Ordinance (MHCO). In the event land within Bemidji Township is under the jurisdiction of the BSCO and/or the MHCO, this ordinance shall apply to those provisions not addressed and not in conflict with the BSCO and/or MHCO or if the provisions of this ordinance are stricter or provides more stringent protection to those areas. It is the responsibility of the property owner to comply with all rules and regulations enforced by other competent jurisdictions.

For issues associated with roads, right-of-way, signs, nuisance, animal and/or rental permits and/or allowed use refer to the applicable township ordinances. In the event contrary terms or a conflict noted in another township ordinance arises, the terms of this ordinance shall prevail.

### **Article 3 - Land Use Districts**

The legal descriptions of the districts in Bemidji Township are as follows:

Bemidji Township hereby adopts the Beltrami County tax parcel identification maps, so long as they are true and correct with overlays as required. All changes, combination's, and divisions require the assignment of new tax parcel identification numbers. All permits required by this ordinance shall be issued based upon the Beltrami County tax parcel identification number system. The official map of Bemidji Township shall be posted and maintained at the Bemidji Township Hall and updated as required.

For purpose of complying with the provisions of this ordinance the unincorporated areas of Bemidji Township are hereby divided into the following land use districts.

1. Agricultural District - District "A" (minimum of 10 contiguous acres)
2. Rural Residential Areas - District "R-1" (minimum of 105 ,000 square feet or 2.4 contiguous acres)
3. Commercial District - District " D" (minimum 21 7,800 square feet or 5 contiguous acres)

The above-named districts are hereby established and shown on the map which shall be referred to as the official zoning map of Bemidji Township and which is incorporated herein and made a part hereof.

### **Article 4 - Rules and Definitions**

The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

1. The singular number includes the plural and the plural the singular.
2. The present tense includes the past and future tenses, and the future the present.
3. The word "shall" is mandatory and the word " may" is permissive.
4. The masculine gender includes the feminine and neutral genders.
5. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be constructed as set forth in such definition.
6. All measured distances expressed in feet shall be to the nearest tenth of a foot.
7. In the event of conflicting provisions within this Ordinance, the more restrictive provision shall apply.

For purposes of this ordinance, the following terms shall have the meaning indicated in this Article unless specifically stated otherwise. Words used in the present tense shall include the future; words used in the future tense shall include the present tense ; words used in the singular shall include the plural; words used in the plural shall include the singular; the word " shall" is mandatory and not discretionary; the word "persons" includes and individual , firm, association, syndicate , partnership , joint enterprise, corporation, trust or any other legal entity. Words omitted from this Article shall be defined using *Black's Law Dictionary* primarily and then *Webster's Collegiate Dictionary* secondarily.

1. Access drive: An improved area of any lot or parcel which is used for vehicular access or parking. Drives improved solely with gravel or rock materials will not be used to calculate lot coverage areas; any paved (bituminous, concrete, paving blocks, etc.) area shall be counted/calculated as impervious surfaces.
2. Accessory structure: Any subordinate structure, except residential structures intended for human habitation, incidental to and customarily connected and/or associated with the principal building or use and which is located on the same parcel with such principal building or use. Examples of such structures and facilities may include but are not limited to: swimming pools; tennis courts; saunas; solar collectors; wind generators; satellite dishes; transmitters and receivers; detached garages and storage buildings.
3. Accessory use: Any use which is incidental to the principal use of a lot, except additional residences intended from human habitation.
4. Agricultural use: The use of land for agricultural purposes including: farming; dairying; pasturage; horticulture; silviculture; animal and poultry husbandry and the necessary accessory uses for treating and storing the produce, provided that the operation of any such accessory uses shall be secondary and related to that of the principal agricultural activities. Additionally, livestock products, including but not limited to, milk, butter, cheese, eggs, meat, fur and honey.
5. Agriculture structure: Any structure existing or erected and used principally for agricultural purposes, with the exception of dwelling units intended or customarily used for human habitation.
6. Airport or heliport: Any land or structure which is used or intended for use for the landing and take-off of aircraft, and for appurtenant land or structure used or intended for use for airport buildings or other airport structures of rights-of-way.
7. Amendment: A revision to the content of this Land Use Ordinance whether by deleting and/or amending to provide clarification of the intent or the revision or deletion of entire sections.
8. Auto or motor vehicle reduction yard: A lot or yard where one or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage and/or abandonment. (See also Junk)
9. Board of Adjustment: Bemidji Township Planning and Zoning Commission or Board of Supervisors designees.
10. Board of Supervisors: The Bemidji Town Board of Supervisors.
11. Buffer: The use of topography, spaces, geography and screening to separate uses or structure(s) from other uses. Examples include, but are not limited to, trees, shrubs, fences and buildings.
12. Buildable area: The portion of a lot or parcel remaining after the required setback(s) and well and sewer/septic requirements have been provided.
13. Building: Any structure, either temporary or permanent, having a roof or other covering, and used for shelter or enclosure of any human, animal or property of any kind, situated on private and/or public property. When such structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.
14. Building line: The line measured across the length or width of a lot at the point at which the principal structure or structure cannot extend.
15. Building setback: The minimum horizontal distance between the building or structure and specified lot line as prescribed in this Ordinance.
16. Business: Any establishment, occupation, employment or enterprise where merchandise is manufactured, exhibited or sold or where services are offered for compensation, barter and/or some other benefit.
17. Cemetery/Mausoleum: Public and private cemeteries as defined under Minnesota Statutes.

18. Church: A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.
19. Clear-cutting: Shall mean "intensive vegetative clearing" including the complete removal of trees or shrubs in a contiguous patch, strip, row or block.
20. Commercial agriculture use: Commercial agricultural uses are operations of which are conducted without the principal residence of the owner on-site or on the tax parcel.
21. Commercial use: The use of land or buildings/structures for non-residential revenue producing activities.
22. Contiguous: Land that is joined by common boundary and not separated by roads, easements, or public waters.
23. Conditional/Special use: A land use or development as defined by Ordinance that would not be appropriate or allowed generally but may be allowed and requires special approval with specific restrictions and review process as provided by official controls upon a finding that standards and criteria stated in this Ordinance will be satisfied. The special approval with conditions is a Conditional Use Permit
24. Comprehensive Plan: The 2040 plan for Bemidji Township.
25. Cul-de-sac: A vehicular turn-around terminating a dead-end street.
26. Dead-end street: A street/roadway with one end open to traffic.
27. Deck: A horizontal unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principal use or site and at any point extending above the ground.
28. Demolition landfill: Any area of land used for the disposal of non-leachable solid waste from construction or destruction of residential or commercial buildings or the contents of such buildings.
29. Density: The number of dwelling units or commercial buildings residing upon or to be developed upon.
30. District: An area of the Bemidji Township in which the regulations governing the use of land are uniform.
31. Domestic animal: A domestic animal are those species of animals that commonly live under the husbandry of humans of which includes farm animals, dogs and common house cats. A domestic animal is one that has a phenotype that has been significantly affected by human selection.
32. Driveway permit: A permit issued to construct a driveway to access a tax parcel, property.
33. Dwelling site: A designated location for residential use, either permanent or temporary, by one or more persons, including camping and recreational vehicle sites.
34. Dwelling/dwelling unit: Any building, structure, or portion of a building or structure, or other shelter, designed as a short or long-term living quarters for one or more persons, as a single-family dwelling, (separated by a wall from another) including rental or timeshare accommodations such as motel, hotel, resort rooms and /orcabins.
35. Easement: A grant by the owner for use of land for the public or private use for specific purposes.
36. Essential services: All utility services whether they are public or private. Antennas and support structures shall not be considered an essential service.

37. **Exotic animal:** All members of the cat family, except domestic cats. This includes, but is not limited to, lions, tigers, cougars, leopards, cheetahs, ocelots and servals. Also bears, wolves, fox, raccoon, nonhuman primates, wildlife and/or any hybrid or cross between an animal previously listed as well as offspring from all subsequent generations of those crosses or hybrids. Exotic animals are also captive wild animals that has a phenotype not significantly affected by human selection but that is captive or otherwise lives under direct human supervision or control, including but not limited to zoo animals, wildlife parks and commercial game preserves and/or commercial hunting preserves.
38. **Extractive use:** The use of land for surface and/or subsurface removal (extraction and/or mining) of sand, gravel, rock, industrial minerals, natural minerals, metallic or non- metallic minerals, peat not regulated under Minnesota Statutes. The only exception from this definition shall be removal of minerals associated with construction of a building provided such removal is an approved item in the building permit.
39. **Family /Relative:** An individual or group of two or more persons related by blood, marriage or adoption, and may include up to three additional persons not related by blood, marriage or adoption, living together as a single housekeeping unit as defined by Minnesota Statutes.
40. **Farm:** A tract of land, ten (10) acres or more in contiguous size, which is principally used for agricultural activities. (See agricultural use)
41. **Farm accessory mobile home:** A mobile home placed on a farm which already has a primary residence on the same parcel or nearby land under the same homestead, said mobile home to be used as a temporary residence by a family member or farm employee. Farm employment must be the primary occupation of the employee and/or non-family resident of the mobile home. The non- family, farm employee applicant for such mobile home must demonstrate the need for the accessory mobile home or dwelling to be located on the farm site in addition to the primary farm residence.
42. **Farm animal:** Any animal other than a dog or cat normally kept outside of a human dwelling unit. Farm animals include, but are not limited to, chickens, cows, geese, goats, sheep, horses, llamas and pigs. Includes foreign domestic cattle. Keeping farm animals is an agricultural use. Farm animals do not include exotic animals.
43. **Farm and/or Farm Parcel:** A tract or parcel of land containing at least ten (10) acres, devoted primarily to agricultural uses, together with a dwelling and/or other accessory structures.
44. **Farm housing, temporary:** A temporary dwelling unit intended for human habitat on, placed on the farm parcel with an approved interim use permit to be reviewed every five (5) years to confirm a continued need of which meets the purpose. This provision is meant to provide transitional or seasonal housing for humans. Temporary housing must comply with all Subsurface Sewage Treatment Systems (SSTS) requirements.
45. **Farm related business:** A business operated on a farm parcel, related to or supportive of agricultural activities, including but not limited to, blacksmithing, farm implement repair, and/or sale of agricultural products.
46. **Feedlots:** An area used in a manner of which requires the operator to secure a Feedlot permit from the Minnesota Pollution Control Agency shall constitute a feedlot, or an area used to keep, maintain, house, raise, breed, board animals of which the species are customarily known to consume growing vegetation during the spring/summer months , however, are fed supplemental food source(s) due to the lack of availability of growing vegetation.
47. **Fence:** A fence is any addition, structure, wall or gate erected as a divider marker, barrier, or enclosure along the boundary, or within the curtilage. The material utilized to construct or erect a fence does not preclude the structure from existing as a fence, so long as the building set-back requirements are satisfied.



48. Final plat: The final map, drawing or chart prepared pursuant to Minnesota Statutes on which the sub-dividers plan or subdivision is presented to the appropriate governing entity for approval and which, if approved and signed by the Township Board Chair, it shall be recorded with the County Recorder or the County Registrar of Titles
49. Footprint: The area of a building measured from the outermost part, including eaves, decks, etc.
50. Garage: An enclosed building designed or used for the storage of motor vehicles.
51. Governing body: Bemidji Township Board of Supervisors.
52. Hardship: A hardship exists when the property in question cannot be put to reasonable use under the strict interpretation of the official controls of this Ordinance; the plight of the landowner is due to circumstances unique to his /her property and was not created by the landowner and/or the landowner knew or should have known that the property was substandard prior to purchase of the property; and the variance, if granted, would not alter the essential character of the locality. Economic conditions alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the official controls.
53. Hazardous waste: Any refuse, sludge, or other waste material or any combination of hazardous waste in classification or form, including but not limited to, solid, semi-solid, liquid or gaseous form. Hazardous waste materials may include, but are not limited to, explosives, flammables, oxidizers, poisons, irritants and corrosives.
54. Height of building /structure: The vertical distance between the lowest ground level at the structure and the highest point of the structure.
55. Home occupation: A commercial business conducted on the same property and/or tax parcel on which the business owners home is situated, which is a type or character consistent with the rural residential lifestyle, and which is established and operated under such conditions that the use may not be a nuisance, increase costs to the township , increase the average daily traffic on the roadway and/or otherwise be incompatible with the surrounding area.
56. Housing/Residential Performance Standards: Those standards established for the purpose of promoting residential energy conservation, preserving and protecting desired architectural and aesthetic characteristics of housing and neighborhoods in the community and protecting the health, safety, welfare and environment of residents of the community.
57. Individual Sewage Treatment System/Subsurface Sewage Treatment System: Any sewage treatment system, or part thereof, serving a dwelling, or other establishment, or group thereof.
58. Interim Use Permit: A land use or development as defined by Ordinance that would not be appropriate or allowed generally, but may be allowed and requires special approval with specific restrictions and review process as provided by official controls upon a finding that standards and criteria stated in this Ordinance will be satisfied. The special approval with conditions and an expiration of the permit is an Interim Use Permit.
59. Junk: Any scrap, signs, copper, brass, rope, rags, batteries, paper, synthetic or organic, trash, rubber debris, waste or junk ed, dismantled or wrecked automobiles or construction equipment, or parts thereof, iron, steel, and other scrap or nonferrous materials.
60. Junkyard: A place of business , establishments or place of storage maintained for keeping, storing or piling, whether tempo rarely, regularly or continually , or a place maintained for buying and/or selling at retail and/or wholesale, used, or second-handed material of any kind, including but not limited to, motor vehicles, machinery and/or parts thereof, cloths, rugs , clothing, paper rubbish, bottles, rubber , iron, or other metal or articles, concrete, bituminous , construction debris , which from their worn condition, render them practically useless for the purpose for which they were made. This shall include a lot or yard for the purpose of keeping abandoned inoperable or partially dismantled motor vehicles or the remains thereof for the



- purpose of dismantling; sale of parts therefrom, sale of scrap, storage or abandonment. Any uncovered storage of any motor vehicles or other used material on any lot in any district shall constitute a junkyard under this ordinance.
61. Kenel: Any structure or premises on which four (4) or more dogs over four (4) months of age are kept for pets, sale, breeding, profit, etc.
  62. Land use permit: A permit allowing a property owner to construct on or to move a structure onto his/her property. A land use permit may be used generically in this ordinance to include all permits, including but not limited to land use, driveway, special use, conditional use, etc.
  63. Lot: A parcel of land designated by plat, metes and bounds, registered land survey, auditors' plat or other accepted means and separated from other parcels or portions by said description or designated by Beltrami County tax parcel identification number for the purpose of sale, lease or separation.
  64. Lot area: The area of land within the boundaries of a lot.
  65. Lot on corner: A lot situated at the junction of and abutting on two (2) or more intersection roads; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty-five (135) degrees or less.
  66. Lot line: The line marking a boundary of a lot.
  67. Lot of record: A parcel of land designated by Beltrami County tax parcel identification number as of the effective date of this Ordinance or amendment of this Ordinance.
  68. Lot width: A horizontal distance between the side lot lines of a lot measured at right angles to the depth.
  69. Map: Official Zoning Map of Bemidji Township.
  70. Metes and bounds: A method of property description by means of their direction and distance from an easily identifiable and permanent point.
  71. Mississippi Headwaters Board: A joint powers board established pursuant to law charged with Planning and Zoning in the Upper Mississippi corridor.
  72. Mobile home /manufactured home: A structure designed or used for residential occupancy built upon or having frame or chassis to which wheels may be attached by which it may be moved upon a highway, whether or not such structure actually has, at any given time, such wheels attached, or is jacked up or skirted. Mobile homes /manufactured homes shall be treated as single family housing units.
  73. Mobile home/manufactured home park: A parcel of land which has been planned and improved for the placement of two or more mobile /manufactured homes and licensed by the State of Minnesota. The Park may allow for homes on individual lots or as a part of a planned unit development.
  74. Multiple family dwelling: A structure designed or used for residential occupancy by more than one family, with or without separate kitchen or dining facilities, including but not limited to, apartment houses, duplex houses, rooming houses, boarding houses, townhouses, row houses and similar housing types.
  75. New construction: Any structural alteration to a building that exceeds 50% of the value of the structure and/or 50% of the footprint, whichever is more restrictive, shall be considered new construction. The value is to be determined by calculating the square footage value based on the current construction value worksheet used by Beltrami County.
  76. Non-conforming use: Any building or land lawfully occupied or used at the time of passage of this Ordinance or amendment thereto which does not conform after the passage of this Ordinance or amendment thereto with the use regulations of the district in which it is situated.

77. Nursery /landscape: A business growing and selling trees, vegetation, flowering and decorative plants, and shrubs and which may be conducted within a building or without, for the purpose of landscape construction or improvements.
78. Owner: Any person, individual, firm, association, syndicate, partnership, joint venture, corporation, trust, or any other legal entity having proprietary interest in the land subject to this Ordinance.
79. Parking space: A single area with a minimum of 10 ft. x 25 ft. size designated for parking one vehicle. Said space will be used for any computation of impervious surface of a parcel of land for purposes of this Ordinance.
80. Petroleum contaminated soil ordinance: An Ordinance in Bemidji Township regulating the land farming of petroleum contaminated soil. All land farming of petroleum contaminated soil requires a special use permit.
81. Planning and zoning commission: The Bemidji Township Planning and Zoning Commission. (Also known as the Bemidji Township Board of Adjustment or Board of Supervisors designees.)
82. Plat: The final map, drawing or chart indicating the layout of the subdivision to be submitted to the Beltrami County Planning and Zoning Commission and the Bemidji Township Board for their consideration and required approval. The final map, drawing or chart approved by the Beltrami County Planning and Zoning Commission and Bemidji Township Board must be signed and recorded at the Beltrami County Recorder's Office.
83. Principal building: A building or structure in which is conducted the main or principal use of the premises on which said building or structure is situated.
84. Principal use: The primary or main use of the premises.
85. Protective and/or restrictive covenant: A contract in readable form entered into between private parties which constitutes a restriction of the use of a particular parcel of property.
86. Rear lot line: Any lot line which is not a front or side lot line.
87. Residential dwelling unit: Any space inside a building designed for the dwelling of an individual or family. Said space includes but is not limited to individual apartments, single mobile / manufactured homes, homes in mobile /manufactured home parks, basement apartments, "mother-in-law" suites, etc.
88. Right-of-way: Land used as an easement, road, street, alley, trail or crosswalk.
89. Road: A right-of-way which affords the principal means of access to abutting property, a road may be designated as a highway, thoroughfare, street, parkway, boulevard, avenue, lane, drive, cart-way, easement, place or other appropriate designation.
90. Road agreement: An agreement in Bemidji Township regulating the road standards. (Refer to Road Agreement).
91. Sanitary landfill/transfer station: Any building /structure or land which is or proposed to be used for the disposal of solid and/or non-solid waste without creating pollution of land, water or air without creating hazards to the public health or safety or without creating a public nuisance, by utilizing principals of best engineering and environmental principles to confine the solid and/or non-solid waste to the smallest practical volume and/or quantity. This definition shall include, but is not limited to, all sanitary landfills and/or transfer stations, whether modified or not, permitted and approved by Beltrami County and/or the Minnesota Pollution Control Agency.
92. Selective cutting: The removal of single scattered trees and/or shrubs.

93. Sewage treatment system: Means a septic tank and soil absorption system or other individual or cluster type sewage treatment systems. This may also be referred to as a Subsurface Sewage Treatment System (SSTS).
94. Screening: The use of fences, permanent landscape plantings, or other suitable means to reduce visual impact of a structure or use upon adjacent structures or uses.
95. Setback: The minimum horizontal distance between a structure, individual sewage treatment system, well and /or other facility, road, highway and /or property line.
96. Shore-land Management Ordinance: An Ordinance in Beltrami County regulating the shoreland management.
97. Sign: An identification, description, illustration, or device which directs attention to a product, place, service, person, institution, event and/or business. (Refer to Bemidji Township Sign Ordinance).
98. Special Event: Is any large indoor or outdoor concert, fair, show, festival, carnival, rally, party, tournament, street dance, run, race, walk, parade or other entertainment or celebration of limited duration that is held on public or private property or any event that will require the use of parking concerns, traffic generation, or an increase in demand of the Township infrastructure.
99. Structure: Anything built, constructed, erected or placed, the use of which generally requires permanent or temporary location on the ground or attached to something having a permanent or temporary location on the ground, including but not limited to, signs and/or buildings.
100. Structural alteration: Any change, except those required by law or Ordinance, which would prolong the useful life of the supporting members of a structure or building, such as bearing walls, columns, beams or girders.
101. Subdivision: The process or result of subdividing land as defined in the Subdivision Controls Ordinance of Beltrami County as well as the Bemidji Township Ordinance, rules, code and/or regulations.
102. Substandard lot: A lot which was recorded prior to the enactment of this Ordinance which does not meet the minimum lot area, structure setbacks or other dimensional standards of this Ordinance.
103. Temporary structure: A non-dwelling structure not permanently affixed to the ground, which has been erected or moved onto a lot for a specific purpose. Temporary structures, or parts thereof, shall not be located on a parcel of land for more than six (6) months in a given year without an appropriate Bemidji Township issued permit.
104. Variance: Relief from certain provisions of this Ordinance may be granted when, due to the particular physical surrounding's, shape, topographical condition of the property, compliance would result in a hardship upon the property owner. A hardship is distinguished from a mere inconvenience or a desire to increase the property value and/or financial profits and/or gain. A variance shall not be used to permit a use in a district where it is not allowed under the terms of this Ordinance. Variances shall only be granted in compliance with Minnesota Statutes and the provisions of this Ordinance.
105. Water course: The term "water course" shall include channel, creek, ditch, drain, river and stream.
106. Wind Energy Conversion System (WECS): An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: powerlines,

transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on- site or distributed into the electrical grid.

## **Article 5 - General Regulations**

### **A. Compliance with Land Use Ordinances**

No land, structure or part thereof may be used, constructed, erected, reconstructed, altered, maintained or occupied except in conformity with the provisions of this Ordinance.

### **B. Permits**

A permit is required for all land use activities, except as noted in this Ordinance.

**C. Special Event Permit/Conditional Use Permits/Interim Use Permits** A Special Event /Conditional Use / Interim Use Permit may be required prior to the use of property. (Common Example; engaging in a business venture from your home or property requires a special event /conditional use / interim use permit in all non-commercial districts.) In addition Conditional Use / Interim Use Permit is required when a structure containing a non-conforming use in a district is destroyed by any means and the township determines that because of its location or unique situation and/or condition that the structure, with a Conditional Use / Interim Use Permit, may be rebuilt, which would allow the use or under the Conditional / Interim use a more restrictive use may continue. The applicant bears the burden of proving that the standards and criteria established by the Ordinance has been satisfied.

All Interim Use Permits issued must designate the effective duration of the interim use, do not attach to the property, and are not transferrable to any person other than the applicant.

A Special Event Permit must be obtained by any person or organization desiring to hold a special event within any zoning district in Bemidji Township, in addition to any other permit required for the event by State Law, County or Township Ordinance.

### **D. Junk, Vehicles, Trash and Nuisance/Public Nuisance**

It is unlawful to park or store any obviously inoperable and/or abandoned and/or partially dismantled motor vehicle or the remains thereof, junk, trash, household furnishings, appliances, and/or parts or components thereof, on any property, public and/or private, unless housed within a lawfully erected building. Any violation of this Section is declared to be a nuisance and upon seven days of written notice to the property owner as declared by the records in the office of the Beltrami County Auditor, of private premises on which such material is found, the Township may remove the same and certify the cost of such removal as any other special assessment.

### **E. Number of Dwellings**

Only one (1) dwelling per tax parcel is allowed in any district except as noted within this Ordinance.

## **F. Dwelling/Housing Performance Standards**

1. Foundation: All residential dwellings in the Township shall be firmly anchored to an industry accepted standard foundations and/or anchored down with a minimum of eight (8) tornado type anchors attached to the frame with four (4) anchors to each of the sides.
2. Septic Systems: All owners and developers shall obtain the required septic system permits when altering the dwelling or constructing a new dwelling. Copies of the design and final inspection report prepared by a certified septic system inspector shall be supplied when appropriate and/or requested by Township officials or designees. The site evaluation and/or inspection report prepared by a certified septic system inspector shall be kept on file at the Township when submitted to the Township.
3. Land Use Permits: Land Use Permits are required prior to any excavation, construction on or moving a structure onto any property. Land Use Permits are valid for one (1) year from the date of issuance and all delinquent and/or current property taxes must be paid in full to obtain a Land Use Permit. Relocating an existing structure to a different location on the same parcel of property does not require a Land Use Permit but must meet all of the setback regulations and Ordinance regulations for the district in which it is located. Permits are required for all buildings (except temporary agriculture buildings) of greater than 144.0 square feet footprint. Any additions, including but not limited to decks, to existing buildings require a Land Use Permit.

## **G. Set Back Regulations**

All buildings and structures shall be setback a distance of not less than fifty (50) feet from the edge of the road right-of-way. When a parcel of property borders more than one public roadway, the fifty (50) foot set-back shall be applied on all sides of the property bordering a public roadway.

All buildings and structures shall be setback a distance of not less than fifteen (15) feet from the side and rear lot lines.

When new residential development abuts commercial and/or agricultural zones and/or uses, or when new commercial abuts existing agricultural and residential zones and/or uses there shall be a living privacy buffer, (unless there is a public road separation) setback plan coordinated with and outlined by the Beltrami County Soil and Water Conservation District and approved by the Bemidji Township Board of Supervisors which the landowner must present at the time of application. This living buffer shall be at a setback distance of a minimum of thirty (30) feet and shall be located along the property line where it abuts the commercial and/or agricultural uses and shall be established and shall show evidence of survivability within two (2) years of the building permit being issued. This is the responsibility of the new landowner purchaser and/or developer.

Temporary shelters for persons waiting for a school bus or similar uses shall be exempted from this provision if constructed and located off the road right-of-way so as to not interfere with public roadway maintenance, including but not limited to snow removal and/or public safety.

## **H. Location of Essential Services/Utility Equipment**

To the extent feasible, equipment for essential services shall be underground so as to eliminate overhead wires, and other unsightly structure and equipment. Essential services include, but is not limited to, power lines, pipelines, telephone/communication lines, sewer, water, gas, oil, petroleum products, cable television, etc. Prior to the placement/construction of new and/or replacement essential services modalities, an application for a Utility Permit on Township Right-of-Way must be submitted and approved by the Bemidji Township Board of Supervisors. A plan approved by the Bemidji Township Board of Supervisors must also be submitted regarding the removal of the

old and/or replaced structures. The placement for essential services shall comply with all other provisions in this ordinance as well as those regulations provided by Beltrami County, State of Minnesota and Federal Law, Regulations and/or Codes.

**I. Excavation of Mineral Materials**

The use of land for the excavation or removal of any mineral materials for commercial use is permitted by obtaining an Interim Use Permit. The Town Board shall, as a condition of granting the Interim Use Permit, impose all conditions on said use which will guarantee the health, general well-being, welfare and safety of the inhabitants of the Township and individuals neighboring said excavation area. In addition, the Town Board shall also impose as a provision of granting the Interim Use Permit that certain steps and procedures be undertaken in order to ensure the proper management and aesthetic value of the neighborhood is maintained and preserved. The Town Board shall require a reclamation bond prior to any and all work in excavation of the mineral materials. The bond shall be a minimum of \$50,000 applicable to the first 5 acres and \$10,000 per acre thereafter. Evidence of a reclamation plan is required, based upon the standards and best practices set forth by the Minnesota Department of Natural Resources, in conjunction with the Beltrami County Soil and Water Conservation District. As a further condition of issuance of an Interim Use Permit for said excavation, storage and recycling, the Town Board may impose appropriate standards for the timely reclamation of the land subject to the excavation, storage and recycling so as to ensure its restoration to its original condition insofar as possible as determined by Town Board Resolution.

**J. Sanitary Landfill/Transfer Station**

Sanitary landfills and/or transfer stations are not permitted in any of the land use districts in Bemidji Township.

**K. Signs and Outdoor Advertising**

Bemidji Township has adopted an Ordinance specifically related to signs and signage within the Township. All signs shall conform to the Bemidji Township's Sign Ordinance and the State of Minnesota sign requirements.

**L. Storage and Recycling**

The use of any land for the storage for any purpose and/or recycling of any junk or other used materials including, but not limited to, concrete, bituminous material and/or any other road materials of more than four (4) cubic yards within the Township is not permitted without a Special Use Permit granted by the Bemidji Township Board pursuant to the Special Use Permit procedures of this Ordinance.

**M. Fences**

No fence, wall, planting or obstruction of any type shall be permitted within a public road right-of-way. All fences, walls, planting or obstruction of any type within thirty (30) feet of the road right-of-way shall be kept in good repair and must not create a safety hazard to the traveling public.

**N. Parking Regulations**

Parking space shall be provided in all zones and/or districts as follows: Each dwelling unit on a single lot shall have provisions for at least two (2) off-street parking spaces. Public buildings, including but not limited to, schools, churches shall provide at least one (1) off-street parking



space for every five (5) persons for which seating is provided in the main body of the building. Each commercial establishment must submit plans and shall be required to provide for adequate off-street parking for employees and clientele/customers served prior to the issuance of any Land Use Permit. A parking space shall be a minimum of 10 ft. x 25 ft. for each vehicle. Handicap parking must be in accordance with state law and/or regulations.

#### **0. Home Occupations**

All persons engaged in home occupations must comply with the following provisions of this Ordinance.

1. Any persons wishing to engage in a home occupation must obtain an Interim Use Permit to conducting or performing business.
2. Home occupations shall be conducted by the property owner and resident of the tax parcel and/or dwelling in which the business is located and not include and/or employ more than one additional person in total.
3. No mechanical equipment may be used except that equipment which is compatible with and permissible for household purposes or for a home workshop.
4. Sales of goods and or merchandise are limited to that which is manufactured and/or processed by the practitioner of the home occupation or is a result of agricultural use of the land.
5. Home occupations which create odor, noise, electrical glare, light pollution, dust or vibrations that may harm and/or create a nuisance to neighboring properties in their quiet enjoyment of the land shall not be permitted.
6. All signs for home occupations shall conform to the Bemidji Township Sign Ordinance.
7. Home occupations shall be conducted in a manner that will not disrupt the residential character of the structure and residential zone or district where it is located.
8. The home occupation shall provide off-street customer and employee parking.
9. When required, a home occupation land owner shall upgrade the septic system to accommodate additional water usage or to make the existing septic system compliant with Minnesota Codes.

#### **P. Exotic Animals**

The keeping and/or breeding of exotic animals and non-domestic animals is prohibited in Bemidji Township in all districts. This ordinance does not prohibit veterinarians licensed by the appropriate state and federal licensing entities from practicing in this specialized field of veterinary medicine in the permitted land use zone(s).

#### **Q. Multi-Family Dwellings**

Multi-family dwellings are permitted in residential districts subject to the following conditions, which must include, but are not limited to:

1. There is a minimum of 217,800 contiguous square feet of land plus twice the required septic space for each residential dwelling unit and the dwelling units do not exceed 2,000 square feet of living space exclusive of garages without living quarters.
2. The dwelling units are in compliance with the setback requirements.
3. Each residential (dwelling unit) building has its own septic system and land space is identified and preserved for an alternate system in accordance with Minnesota Codes.
4. A minimum of two off-street parking spaces are provided for each residential dwelling unit as defined in this Ordinance.



5. No more than 35% of the total land area of the parcel is covered by impervious surface.

#### **Article 6 - Subdivision of Lands**

Subdivision of lands without platting shall not be allowed unless the same is done in accordance with the law of the State of Minnesota, the Ordinance of Beltrami County, and all lots so created shall comply with the minimum requirements as to the lot sizes within the district in which they lie.

Subdivision of a parcel of land into three (3) or less lots may be accomplished by completing an application for lot division and submitting it to the Township Clerk with the appropriate fee. Upon receipt of the complete application, the Clerk and/or Zoning Administrator and/or Town Board of Supervisors designee will investigate to ensure that the newly proposed created lot(s) and the remaining lot meets the minimum requirements of this Ordinance for the district in which they are located and that they do not create a substandard or nonconforming situation on any lots that are changed. Upon completion of investigation the responsible party shall notify the Beltrami County Recorder's office via written notice, that said new and remaining lots meet the requirements of the Bemidji Township Land Use Ordinance. All newly created lots shall be divided from lots identified with a tax parcel identification number as assigned by the Beltrami County Tax Parcel Identification System and new lots shall receive a tax parcel identification number before any permits shall be issued by Bemidji Township.

Newly created plats (shall comply with statute 505) are allowed upon review of all of the information required of the developer in presenting the proposed plat to the Bemidji Township and Planning and Zoning Commission of Beltrami County. The developer shall also present seven (7) copies of said information to the Town Board and Planning and Zoning Commission for a public hearing. In addition, the developer shall submit seven (7) copies of all addendums and restrictive covenants or other land use restrictions which will be imposed upon the purchasers of the lots described in the initial plat. All approved plats must be recorded at the Beltrami County Recorder's Office within 30 days of approval by the Bemidji Township Board of Supervisors and the Beltrami County Planning and Zoning Commission whichever occurs last. All newly created roads within the plat shall remain private for the use of the occupants of said plat until established as public roads pursuant to the Bemidji Township Road Agreement and pursuant to the petitioning procedures of Minnesota Statutes.

Upon receipt of the copies of the plat and all addendums from Beltrami County, the Township Clerk or Zoning Administrator and/or Town Board of Supervisors designee, shall cause a thorough investigation regarding properties adjacent to the proposed plat, land suitability and any other information as required. Upon completion of the investigation, review of the plat shall be placed on the Planning and Zoning Commission's agenda for the next regularly scheduled meeting so long as the Planning and Zoning Commission's regularly scheduled meeting is not scheduled less than fourteen (14) business days from the above noted receipt of the plat and all addendums and completion of the investigation. The Planning and Zoning Commission shall review the plat and the result(s) of the investigation and forward a recommendation to the Town Board. The Town Board shall then schedule a review of the preliminary Plat. Upon review, the Town Board shall forward written preliminary approval or disapproval of the proposed plat to the County Planning and Zoning Commission along with comments relating to that action. All review and comments shall be completed and forwarded within forty-five (45) business days, excluding federal and state holidays, of receipt of all required information.

Upon final approval of the final plat by the Beltrami County Planning and Zoning Commission pursuant to the Beltrami County Subdivision Controls Ordinance, the Town Board shall review said plat, the final plat and be signed by the Town Board Chairperson before being approved by the Beltrami County Board of Commissioners.

Upon approval of the final plat by the Town Board, said approval shall be endorsed on the plat and signed by the Chairperson and Town Clerk of the Town Board. Any and all changes/alterations in a plat must be approved by the Town Board before any and all subdivisions are recorded. Land use permits shall not be issued until the plat is recorded and tax parcel numbers are assigned.

A fee to review the plat shall be paid by the developer to Bemidji Township prior to any review. The fee will be set by Resolution by the Town Board on an annual basis.

**Article 7 - Agricultural District: District A**

(Minimum of 10 acres)

The following uses shall be allowed without a land use permit in the Agricultural District:

1. Farm and home occupation related to agricultural operations of land owner.
2. Farm animal husbandry and all operations associated with animal husbandry.
3. Horticultural, forestry and agricultural operations.
4. Agricultural produce and livestock sales grown and/or produced on landowner ' s property.
5. Veterinarian and animal hospitals (farm and large animal).
6. Towers less than seventy-five (75) feet.
7. Uses related to principal agricultural operations and accessory uses, including but not limited to:
  - a. Manure storage/stockpiling; generated on the property where it is stored /stockpiled.
  - b. Beekeeping.
  - c. Grain elevators and/or silos.
  - d. Outdoor storage of equipment owned, leased or in control and custody of or by the land owner.
  - e. Outdoor storage/stockpiling of animal feed, bedding and/or maintenance products, including but not limited to, hay, straw, silage, grain, crops, etc.
  - f. A Conditional/Interim Use Permit use permit is required for anything other than what is permitted above.

**Article 8 - Rural Residential Areas: Districts R-1;**

The following uses shall be allowed with a duly issued land use permit in the Rural Residential Areas (R-1

R-1 (Minimum of 105,000 contiguous square feet or 2.4 acres)

1. Single family dwellings and all related structures.
2. Public parks, forest preserves, including but not limited to tree growing on private lands.
3. Accessory buildings.
4. Temporary accessory buildings for uses incidental to the above permitted and allowed uses.
5. An Interim Use Permit use permit is required for anything other than what is permitted above.
6. A CIC, PUD or the like, are not allowed in this district.

Area Regulations: No buildings shall be allowed on any lot having a width at the building line of less than three hundred (300) feet, not on any lot having an area of less than 105,000 contiguous square feet. Said area shall not include easements or rights-of-way abutting said lot. No more than 35% of the total land area of the parcel is covered by impervious surface. Only one dwelling is allowed on a lot/parcel.

The Shore-land Buffer / Mississippi Headwaters Management District shall be governed by the Mississippi Headwaters Conservation Ordinance. Wherever the Bemidji Township Land Use Ordinance are stricter or addresses issues /situations for which the Mississippi Headwaters Conservation Ordinance is silent the Bemidji Township Land Use Ordinance shall apply.

### **Article 9 - Commercial District: District C**

(Minimum 217,800 square feet or 5 contiguous acres)

All uses in this district require a Condition/Interim Use Permit from Bemidji Township.

Special Uses: The following shall require the issuance of a Conditional/Interim Use Permit pursuant to this Ordinance. Violations of the conditions of the permit will constitute a violation of this Ordinance.

1. Accessory buildings
2. Adult entertainment and /or Uses Principal and/or Accessory
3. Ambulance service facilities, operations
4. Amusement park facilities, operations
5. Animal husbandry, boarding, facilities, operations
6. Appliance retail, wholesale, sales, distribution, warehouse facilities, operations
7. Armory facilities, operations
8. Art galleries and museums, facilities, operations
9. Asphalt, bituminous and/or concrete plant, storage, processing, facilities, operations
10. Athletic complex, facilities, operations
11. Auditorium, facilities, operations
12. Automotive parts, sales, repair, salvage /reclamation, rental, tow /impound facilities, operations
13. Banks, financial institutions, facilities, operations
14. Barber/ beauty shop /salon facilities, operations
15. Boat sales, service, warehouse, distribution facilities, operations
16. Booster and/or pressure regulating stations, facilities, operations
17. Bowling alley, facilities, operations
18. Building material storage yard, facilities, operations
19. Campgrounds, recreational vehicle facilities, operations
20. Car wash, facilities, operations
21. Cemetery, mausoleums, facilities, operations, including, but not limited to humans and /or animals
22. Chemical storage, facilities, operations (not related to the operations of the land owner)
23. Church, facilities, operations
24. Commercial/industrial parks, facilities, operations (See Industrial Park)
25. Counseling, facilities, operations (residential and/or non-residential)
26. Crematorium, facilities, operations (See also Funeral Home and/or Mortuary)
27. Dental/ Medical Clinic and/or Hospital and/or Medical Facility, facilities, operations

28. Electrical power substations and/or major electric and/or utility transmission lines, facilities, operations
29. Elevated tanks and towers, facilities, operations (not related to the operations of the land owner)
30. Event and convention center, facilities, operations
31. Florist/floral shop, facilities, operations
32. Foundry, facilities, operations
33. Fuel storage and/or distribution, facilities, operations
34. Gasoline /convenience store
35. Gasoline service stations, facilities, operations
36. Grocery store and/or warehouse, facilities, operations
37. Health club and/or spa, facilities, operations
38. Hospitals, clinics for animals, including kennels, facilities, operations
39. Hospitals, clinics for humans, including short term and long-term care and/or treatment facilities, facilities, operations
- 40.
41. Hotell/motel, facilities , operations
42. Incinerators, facilities, operations
43. Industrial, heavy manufacturing, facilities, operations
44. Industrial, light manufacturing, facilities, operations
45. Industrial park, facilities, operations
46. Landfill/transfer stat ion, facilities, operations (construction waste, solid waste, nonsolid waste, hazardous waste, household waste)
47. Laundromats, facilities, operations  
Laundry and/or dry cleaners, facilities, operations
48. Library, facilities, operations
49. Liquor store and/or commercial liquor warehouse, facilities, operations
50. Lumber yard, sales, warehouse and/or mill, facilities, operations
51. Machine shop, facilities, operations
52. Manufacturing, facilities, operations
53. Monument works, facilities, operations
54. Mortuary and/or funeral home, facilities, operations (see also Crematorium)
55. Newspaper/printing office, facilities, operations
56. Nuclear power plant, facilities, operations
57. Nuisance Ordinance
58. Commercial office, facilities, operations
59. Open sales lot, facilities, operations
60. Outdoor recreational facilities, operations
61. Paper mill, facilities, operations
62. Parks and athletic fields, facilities, operations
63. Parking lot and/or garage and/or ramp, facilities, operations
64. Passive recreational, facilities, operations
65. Pharmacy, facilities, operations
66. Public building(s), facilities, operations
67. Public and or private utility, facilities, operations
68. Public parks, forest preserves, trails, including but not limited to tree growing on private lands and scenic easements, facilities, operations
69. Recreational facility, operations indoor and/or outdoor, facilities, operations

70. Refuse and /or waste management services, facilities, operations Research, design and/or testing facilities, operations
71. Restaurant and/or lounge, nightclub and/or bar, facilities, operations
72. State licensed and/or unlicensed schools, facilities, operations
73. Commercial greenhouses and/or nurseries facilities, operations
74. Truck gardens, fruit growing, and growing of crops and grasses, facilities, operations
75. Farm implement sales, repairs, distribution, facilities, operations Farm and feed retail, wholesale, storage, processing, distribution, and/or operations
76. Equipment services, including but not limited to radio, and television repair shops, facilities, operations
77. Private schools, facilities, operations
78. Roadside stands, facilities, operations
79. Retail and/or wholesale sales, distribution, warehouse, storage, facilities, operations
80. Sand /grave l plant, processing, mining, storage, facilities, operations 81. Theater, facilities, operations
82. Trade shop(s), facilities, operations
83. Transitional housing, facilities, operations
84. Transportation facilities, operations
85. Vehicle manufacturing/manufacturer, warehouse, distribution, sales, facilities, operations
86. Warehouse and distribution center, facilities, operations
87. Warming center, facilities, operations
88. Wastewater treatment plants, facilities, operations
89. Water towers, facilities, operations
90. Wells and pumping stations, facilities, operations
91. Excavation of mineral materials for commercial use, sale, distribution, facilities, operations
92. Commercial radio, television, communication towers, transmitters, facilities, operations

Area regulations: No buildings shall be allowed on any lot having a width at the building line of less than three hundred (300) feet, not on any lot having an area of less than 217,800 contiguous square feet. Said area shall not include easements or right-of-way abutting said lot. Only one occupation /business is allowed per lot/parcel. All structures and impervious surfaces shall not exceed sixty-five (65) percent of said lot.

### **Article 10 - Non-Conforming Uses**

Non-conforming uses:

A use of land, building or structure lawfully permitted when this Ordinance or any amendment thereto is adopted which does not comply in whole or in part with the provisions of this Ordinance or any amendment made thereto shall be a non-conforming use.

Non-conforming use provision:

Non -conforming use provision relating to lots not meeting the applicable area regulations for the district in which they are located: A lot legally recorded prior to the adoption of this Land Use Ordinance in 1977 and have at the building line one hundred fifty feet (150) would allow single family homes on at least 45,000 contiguous square feet in the R-1 district , or 300 feet at the building line and 105,000 square feet in the Agricultural district without a variance.

A variance shall be obtained to use any parcel that does not contain the minimal size requirements of the district in which it is located. In all cases, the property owner shall attempt to bring it into conformity with the Land Use Ordinance before applying for a variance.

Non-conforming use provision:

Non-conforming use provision relating to existing uses, buildings and structures:

The following provisions shall be applicable to any non-conforming significant and actual use of land, buildings, or structures in any district.

1. Buildings - The lawful use of a building, structure or land substantially undertaken and existing at the time of adoption of this Ordinance or any subsequent amendments may be continued although such use does not conform with the district use provisions hereof. Additions to or alterations of buildings shall be permitted with a duly issued land use permit provided that said addition or alterations shall comply with Minnesota Statute Chapter §366.18 and set-back regulations.
2. Non-conforming use, damaged - A non-conforming building, structure, or use of land damaged or destroyed by any cause whatsoever, may be restored, reconstructed in its original size, and used as before, provided that such restoration is completed within eighteen (18) months of such happening. Said restoration or reconstruction shall comply with Minnesota Statute Chapter §366.18.
3. Change - Whenever a non-conforming use has been changed to a conforming use or to a use allowed by a Conditional/Special Use Permit, it shall not thereafter be changed to a non-conforming use of a less restricted area.
4. Discontinuance - In the event that a non-conforming use of any building or land be discontinued for a period of eighteen (18) months, the use of the same shall conform thereafter to the uses allowed in the district in which it is located.
5. Zone change - The forgoing provisions relative to non-conforming uses shall apply to buildings, structures, land, and uses which hereafter become non-conforming due to reclassification of districts under this Ordinance.
6. Change of ownership - In the event that a non-conforming building or land is conveyed to another person, and/or legal entity, such non-conforming use is extended to the new owner of the property provided that uses and time requirements of non-conforming uses shall be determined as if the new owner had possession of the property continually from the date of enactment of this Ordinance.

## **Article 11 - Administration**

### **Section 1 - Township Board of Supervisors**

The Bemidji Township Board of Supervisors shall serve as the administrative authority to this Ordinance. The Town Board in the course of its duties shall:

1. Receive all information and recommendations from the Planning and Zoning Commission and/or as the Town Board deems necessary to grant or deny all special use, conditional use, special event and variance applications. The Town Board of Supervisors is the final determiner of all permits, variances, approvals, denials and other official actions and activities of the Township.
2. Enforce and administer the terms and provisions of this Ordinance through supervision and review of the officials it appoints.
3. Ensure that the Town Clerk or designee of the Town Board of Supervisors publishes and maintains all records in a timely manner necessary for the proper enforcement and administration of this Ordinance.
4. Act as the Board of Adjustment for the Bemidji Township under the rules of the State of Minnesota.



5. Hire township employees to accomplish the goals of the Township Board of Supervisors and the duties entrusted to it by the constituents of Bemidji Township as well as under statutory authority.
6. All employees of the Township are at will employees serving the Town Board of Supervisors.

The Town Clerk and/or his /her Deputy Clerk shall be the Clerk employed by Bemidji Township and all employees of the Bemidji Township are non-voting members of the Town Board and Planning and Zoning Commission. As part of the Town Clerk ' s and/or designee of the Town Board of Supervisors duties, shall include all required filing, service, notice and all other actions requested by the Town Board in its enforcement of this Ordinance.

The duties of the Zoning Administrator or in the alternative the Town Clerk and/or Township Board or their designee shall be as follows:

1. Inspect all construction setback requirements, development, and land use permit applications within ten (10) working days of receiving a land use application.
2. Receive evidence and prepare written evidence/findings and recommendations regarding conditional use permit s, special use permits and variances to the Planning and Zoning Commission and/or Town Board.
3. Take necessary steps to ensure that the provisions of this Ordinance are being complied with, which may include providing assistance in the enforcement of the Ordinance through inspections and offering testimony.
4. Maintain all records necessary for the proper enforcement of the terms and provisions of this Ordinance.
5. Issue Land Use permits and lot division approvals for those applications that fall within the standard guidelines of this Ordinance.
  - a. For Land Use Permits and Lot division requests, an inspection of the property shall be performed, and as applicable, issue a permit or written approval or denial within ten (10) working days of receipt of the complete permit application.
  - b. All denials of an application shall result in a written explanation to the applicant citing the particular section of this Ordinance that applies. All denials shall be reviewed by the Planning and Zoning Commission, if such a Commission exists, and the Town Board at the next regularly scheduled meetings.
6. Review and approve/deny standard (non-plat) lot division applications.
7. Schedule actions for hearing before the Planning and Zoning Commission and the Town Board.
8. Update and maintain the official map of the Township.
9. Coordinate with other agencies regarding enforcement and maintenance of this Ordinance. l
0. Perform all other duties as requested by the Town Board.

## **Section 2 - Planning and Zoning Commission**

The Planning and Zoning Commission shall consist of five (5) members to be appointed by the Town Board. The members of the Planning and Zoning Commission shall serve for a term of three (3) years, unless removed by the Town Board. A member of the Planning and Zoning Commission may be removed for the following of which include but are not limited to, incompetence , misconduct in office, failing to uphold the terms of this Ordinance , favoritism, conflicts of interest, discriminatory actions, absenteeism, including but not limited to, absence from three (3) consecutive meetings without an excuse deemed reasonable by the Bemidji Township Board of Supervisors.



The quorum for the Planning and Zoning Commission to transact business shall be three (3) members.

The duties of the Planning and Zoning Commission shall be as follows:

1. Conduct public hearings on plats, Condition/Interim use and Variance applications and prepare written findings of fact and a recommendation to the Town Board.
2. Supervise and provide assistance in the enforcement of this Ordinance through inspections and offering testimony.
3. Supervise the maintenance of all records necessary for the enforcement of the terms and provisions of this Ordinance.
4. Review the Town Clerk, Deputy Clerk, employees and Zoning Administrator's performance of his/her duties and report to the Town Board with recommendations.
5. Review and provide recommended updates and/or revisions of this Ordinance to the Town Board at least annually.
6. May act as members the Board of Adjustment for the Bemidji Township under the rules of the State of Minnesota.

### **Section 3 -Land Use Permits and Driveway Permits**

Required Applicants:

On or after the effective date of this Ordinance, no person shall construct any driveway or roadway which intersects or connects with any public roadway , excavate for a basement , erect a structure of more than 144 square feet in footprint, or change the exterior perimeter of a building vertically or horizontally, move , or alter any building, structure , or part thereof, without first obtaining a land use permit, and/or driveway permit from Bemidji Township .

With the exception of agricultural areas, all parcels may have only one driveway associated with the parcel. In the event of parcel, lot combinations for which more than one driveway existed prior to the parcel, lot combination, the number of driveways must be reduced to one driveway which served the main parcel, lot prior to the parcel, lot combination.

Exceptions:

1. In Agricultural District A, the construction of temporary animal shelter will be allowed without a land use permit.
2. In Agricultural District A, the construction of a field entrance is allowed if the separation of the fields/property is a result of a constructed fence or other barrier and/or the next closest access is greater than 300' from the new field access.
3. Alteration and/or replacement and/or maintenance /repairs of exterior finishes and essential components does not require a land use permit. (Examples include but are not limited to, painting, replacement of siding, replace or add windows, doors, replacement of roofing materials, i.e. shingles.)
4. Interior alterations to any building, structure, or part thereof that does not result in any exterior alteration does not require a land use permit.

Application Process:

Application for Land Use Permit, Conditional Use Permit, Interim Use Permit, Driveway Permit, Special Event Permit, Variance or lot division or combination shall consist of a completed application form(s), signed by the applicant or his/her agent and accompanied by the

required permit fee(s), a sketch describing structure dimensions, the location of the improvement in relation to adjoining property lines, right-of-way lines, existing buildings or structures, and such other information as may be required by the Township Official(s). The complete application and applicable fee(s) shall be submitted in their entirety to Bemidji Township prior to full acceptance of the application, consideration for approval, scheduling of special meetings, hearings, presentation to the Commission and Board, and the issuance of a permit. If a violation of any Ordinance administered by Bemidji Township is discovered during the application process, a permit shall not be issued, and/or may be revoked, until the violation is mitigated/remedied by the landowner to the satisfaction of the Town Board. In all events, the proposed land use which created the requirement of the approval and issuance of a land use permit must be implemented within one-year of the permit issuance. In the event the implementation of the proposed use for which the land use permit does not occur within one-year of the issuance of the permit, the permit is void and the applicant will be required to submit a new application along with the required fees relative to special meetings and/or hearings.

The land use/driveway permit must be displayed on the property during the excavation, construction, moving, changing, altering or other activity for which the permit was issued for the entire duration of the activity. All terms and conditions of Bemidji Township land use permits, including driveway permits, conditional use permits, special use permits are the responsibility of the property owner regardless of whether they are conducting the work or have retained, bartered, directed, and/or otherwise allowed another to perform the activities.

#### Penalties:

Failure to obtain any required Land Use Permit, Driveway Permit, Conditional Use Permit, Interim Use Permit prior to commencing the above activities renders the landowner subject to penalties under this Ordinance of which may include an after-the-fact permit fee and/or reinstatement of the land, property, etc. to the pre-violation condition. Failure to display any Land Use Permit(s) will subject the landowner to penalties under this Ordinance of which may include revocation of the issued Permit.

#### Setbacks:

All setbacks set forth in this Ordinance must be complied with unless a variance has been provided by the Town Board.

#### Duration:

All Land Use and Driveway Permits expire one (1) year from the date of issuance. In the event the work has not been completed to ninety (90) percent within the one (1) year period, a new Land Use and the required fee will be required to complete the work. The work will be deemed ninety (90) percent complete upon proof of the performance of all State of Minnesota required inspections, including but not limited to septic system, well, electrical, etc. and all exterior construction work, including landscaping. In the event, the work has been completed to ninety percent an extension permit may be granted by the Town Board.

#### Fees:

All Land Use, Driveway, Conditional Use, Special Event, Interim Use Permits, Variance required under this Ordinance shall be set by Resolution of the Town Board on an annual basis.

#### **Section 4 - Conditional Use/ Special Event, Interim Use Permits**

Upon receipt of the completed Conditional Use/ Special Event, /Interim Use Permit and Variance application, established fee and conclusion of the investigation, a Public Hearing will be scheduled at the next regularly scheduled meeting of the Bemidji Township Planning and Zoning Commission or in the alternative the Bemidji Town Board providing that the Township can meet the ten (10) day public notice requirement. If a special meeting is requested by the applicant, an additional fee shall be paid by the applicant at the time of the request. The Planning and Zoning Commission or in the alternative, the Bemidji Township Board shall act on the application at a public hearing within forty-five (45) days after receipt of the complete application and required fees.

Notice: Prior to the public hearing, published and posted notice must be given at least ten (10) days prior to said hearing by publishing in the designated legal newspaper and notice shall be posted at the places designated as legal for posting notices. Owners of adjoining property within the Township and within five hundred (500) feet of a boundary line of the property for which a Conditional Use Permit and/or Special Event Permit, and/or Interim Use Permit and/or Variance is requested shall be notified at least ten (10) days prior to said hearing by first class mail as to the time, place and purpose of the public hearing. Failure of any such property owner to receive such mailed notice shall not in any way affect the validity of the hearing or result thereof.

The hearing shall be noticed and conducted in accordance with the provisions relating to hearing of the Special Event, Conditional Use, Variance and/or Interim Use permits. The said fee shall be in addition to the fee for a Land Use Permit required by this Ordinance; and if a special meeting of the appropriate body of the Township is requested by the applicant, an additional fee shall be paid by the applicant prior to the hearing and special meeting being scheduled.

Special Event, and/or Interim Use Permits are granted only to the applicant and are not transferrable.

A Special Event, and/or Interim Use Permits may not be given, sold, changed, or transferred to include additional parties not named in the said permit application and permit. The location stated in the Special Event and/or Interim Use Permit is the only location where the use is permitted. A Special Event, or Interim Use Permit does not transfer with the ownership of the land and does not imply that a future permit will be granted. All Interim Use Permits and/or Special Event Permits shall be issued with an expiration date. The duration of an Interim Use Permit may not exceed four (4) years. In all events, the proposed use which created the requirement of the approval and issuance of an interim use must be implemented within one-year of the permit issuance. In the event the implementation of the proposed use for which the Interim use permit does not occur to the required completion percentage within one-year of the issuance of the permit, the permit is void and the applicant will be required to submit a new application along with the required fees relative to special meetings and/or hearings.

The criteria and standards reviewed and recommended by the Planning and Zoning Commission to the Township Board of Supervisors in the Board's determination of whether to grant or deny an application for a Special Event, Conditional Use, and/or Interim Use Permit include

the following, in addition to any other criteria or standards specifically set forth in this Ordinance or unique to the special circumstances of the requested use:

1. Whether the use will be injurious to the use and enjoyment of other property and the environment in the immediate vicinity, neighborhood, district or Township for the purposes already allowed.
2. Whether the use will substantially diminish or impair the property values and environment in the immediate vicinity, neighborhood, district or Township.
3. Whether the establishment of the special use will impede the normal and orderly development in the immediate vicinity, neighborhood, district or Township.
4. Whether adequate utilities, access roads, drainage and other necessary facilities and controls have been or are being provided.
5. Whether adequate measures have been or are proposed and will be taken to prevent and/or control odor, fumes, dust, noise, vibration, scenic blight, and/or other annoyances and nuisances so that use will not have a negative effect on the public safety, health and welfare of the immediate vicinity, neighborhood, district or Township.
6. Whether lighted signs or other signs will impair the enjoyment of property and/or property owners in the immediate vicinity, neighborhood, district or Township.
7. Whether the use allowed under the terms and conditions of the Conditional Use/ Special Event and/or Interim Use can be established and conducted in conformity with the current land use district setbacks and standards.
8. Whether provisions for adequate parking, current and anticipated traffic congestions, traffic safety have been provided so as not to constitute a nuisance as defined by this Ordinance and Minnesota State Statutes.
9. Whether the infrastructure of the Township is able to accommodate increased traffic without an additional burden on the Township and its constituents.

Upon consideration of the above noted criteria and provisions within this Ordinance and Bemidji Township Ordinances, the Planning and Zoning Commission and/or the Town Board may attach such conditions, in addition to those required in this Ordinance, as it deems necessary to achieve the purposes of this Ordinance. Violation of any of these conditions or those which are attached by the Town Board shall be deemed a violation of this Ordinance and shall constitute grounds for revocation of the Special Event, Conditional Use and/or Interim Use permit with fines and penalties.

### **Section 5 - Variances**

Upon receipt of the completed variance application, established fee and conclusion of the investigation, a public hearing will be scheduled at the next regularly scheduled Bemidji Township Planning and Zoning Commission and/or the Bemidji Town Board. The said public hearing will follow the same process and procedures set forth in the Special Event, Conditional Use and/or Interim Use Permit public hearings. The said fee shall be in addition to the fee for a Land Use Permit, Special Hearing fee and or other fees required by this Ordinance.

After the hearing provided for above, the Town Board shall determine if the strict enforcement of any provisions of this Ordinance would cause unnecessary hardship or if that strict enforcement would be unreasonable, impractical or infeasible under the circumstances. The Town Board shall consider all other criteria relating to the issuance of a variance which are set forth in other applicable provisions of this Ordinance. To the extent that those other provisions are inconsistent

with this Section, they shall control. If so determined, the Town Board may permit a variance from the terms and provisions of this Ordinance provided that:

1. The conditions causing the hardship are unusual and unique to the property and not merely to the applicant or considered solely upon financial benefit/detriment.
2. The applicant for variance owns any adjoining property which could be combined to create a lesser number of lots of which would more closely meet the applicable area regulations.
3. The variance is necessary in order to secure for the applicant a right or rights in his property that are enjoyed by other owners in the same area or district.
4. The need for the variance was not created by the current landowner or the previous landowner.
5. The granting of the variance will not be damaging to the environment and property rights of other persons or to property values in the vicinity, neighborhood, district or township.
6. The granting of the variance will not be contrary to management policies of the vicinity, neighborhood, district or township.
7. The granting of the variance will not be contrary to the public interest, health, safety or welfare.
8. The granting of the variance is necessary to the reasonable use of the land.
9. A variance shall not be granted simply because there is no objection to the granting of the variance or because those who do not object outnumber or are the majority of those who do object to the granting of a variance.
10. The presently substandard lot met the regulations under pre-existing Ordinances, except under #4 above in this section.

Upon consideration of the criteria listed above, and in the event the Town Board decides to grant the requested variance, the Town Board may attach such conditions, in addition to any other conditions

Upon consideration of the above noted criteria and provisions within this Ordinance and Bemidji Township Ordinances, the Town Board may attach such conditions, in addition to those required in this Ordinance, as it deems necessary to achieve the purposes of this Ordinance so as to minimize the inconsistency of the varied use with the permitted uses set forth in this Ordinance. Violation of any of these conditions or those which are attached by the Town Board shall be deemed a violation of this Ordinance and shall constitute grounds for revocation of the variance.

#### **Section 6 - Public Hearing Records**

Appeals concerning action by the Township Board shall be tape-recorded or written record of the public hearing conducted by the Planning and Zoning Commission and the Town Board. Any party seeking to supplement the factual record presented to either the Commission or Board at the public hearing with new evidence must submit a written summary of their proposed new evidence to the Town Clerk at least five (5) days in advance of the Town Board's consideration of the Planning and Zoning Commission's recommendation. The Town Board may, in its discretion, allow the presentation of new evidence based on its review of the written summary. Only parties who have previously appeared at the Planning and Zoning Commission's public hearing may propose new evidence as outlined herein.

#### **Section 7 - Recording of Variances**

It is the applicant's obligation to record the variance with the Beltrami County Recorder's office after all appeals related to said variances have been finally determined.

### **Section 8 - Waiving of Permit Fees**

In cases where applications relate to land subject to the terms and provisions of the Shore-land Management Ordinance of Beltrami County , as amended from time to time, and the applicant is required to pay similar fees to the County of Beltrami pursuant to the terms and provisions of the said ordinance, Bemidji Township will waive half of the fee relative to Bemidji Township Land Use Permits, Conditional Use/ Interim Use Permits.

### **Section 9 - Current Taxes**

All permits and variance requests shall have all delinquent and current property taxes paid in full prior to the approval of the application.

### **Article 12 - Appeals**

Judicial review shall be in the form proscribed by *Honn v. City of Coon Rapids*, 313 N.W.2d 409 (Minn. 1981). Judicial review must be initiated by filing of the appropriate action with the Beltrami County District Court Administrator within thirty (30) days of the Town Board' s action. Failure to initiate judicial review within that time period shall deprive the District Court of jurisdiction to undertake review of the Town Board's action.

The action of the Town Board which is the subject of judicial review shall not be suspended or stayed pending final resolution of the District Court' s review, except under Order of that Court. The District Court shall not grant an exparte application for a stay by the aggrieved party except upon the aggrieved party's full compliance with the applicable provisions of the General Rules of Practice for the District Courts. The District Court may upon application for a stay or suspension of the Town Board ' s action pending final judicial review require that the aggrieved party post bond or other financial security in a form which the Court shall order and approve. The condition of the bond shall be the payment of the costs of the judicial review, the damages sustained by the Township in consequence of the judicial review, and obedience to the Order of Judgment which the District Court may give if the Town Board' s action or any part of it, is sustained , or if the aggrieved party' s action is dismissed.

The appeal shall be initiated by service of a Notice of Appeal of the form specified herein with the Town Clerk and filing of the Notice of Appeal, together with proof of service, with the Beltrami County District Court Administrator within thirty (30) days of the Town Board's action. Failure to serve and file the Notice of Appeal within the time specified shall deprive the District Court of jurisdiction to undertake review of the Town Board ' s action.

The Notice of Appeal shall state in detail:

1. The Articles and Sections of the Ordinance involved in the appeal.
2. The errors of judgment or law claimed by the appellant to have been committed by the Town Board.

### **Article 13 - Amendments**

Amendments to this Ordinance subject to Chapter 462 of the Minnesota Statutes shall be initiated and carried out with said chapter. All other amendments shall be initiated by one of the following methods and may be affected by a majority vote of the Town Board:

1. Resolution of the Town Board.



2. Resolution/recommendation of the Planning and Zoning Commission to the Town Board.
3. Petition by thirty (30) or more Bemidji Township property owners for an amendment to this Ordinance. The Town Board must act on said petition within sixty (60) days of its receipt.

#### **Article 14- Enforcement**

##### **Enforcement:**

The Bemidji Town Board shall bear the responsibility for administration and enforcement of this Ordinance. The Town Board, Zoning Administrator and/or duly authorized township representative has the power to enforce this Ordinance upon the owner of a property and /or their agent.

This Ordinance shall be enforced with the imposition of civil and/or criminal penalties provided for under Minnesota law. Utilization of a civil remedy shall not prevent a criminal prosecution for the same violation. A criminal prosecution for a violation shall not be a bar to a civil remedy.

Any violation of the provision of this Ordinance or failure to comply with any of its requirements, including failure to comply with conditions attached to permits and variances and making false statements on permit and variance applications, shall constitute a misdemeanor and shall be punishable as defined by Minnesota State law. Each day of a violation of this Ordinance or each day that a failure to comply with any requirements of this Ordinance constitutes a separate offense.

A violation of this Ordinance may occur regardless of whether or not a permit is required for a regulated activity. In the event any land is used or is proposed to be used in such a manner as to be in violation of this Ordinance; or in the event any building , structure , alteration thereof or part thereof, is, or is proposed to be used or erected in violation of this Ordinance; the Town Board or its authorized representative may issue a cease and desist order(s) to halt the progress of any on-going violation. Once a cease and desist order has been issued, the activity shall not be resumed until the violation is remedied and the cease and desist order is lifted. In addition, the Town Board or its authorized representative may institute an injunction, mandamus, abatement, or other appropriate action to prevent, enjoin, correct, abate or remove such unlawful use, construction, reconstruction, alteration or maintenance.

The Town Board or its authorized representative shall conduct Land Use Ordinance Compliance inspections during the course of construction of permitted activities. No person shall hinder or otherwise interfere with the Town Board or its authorized representative in the performance of their duties and responsibilities. Refusal to allow reasonable access shall be deemed a separate and distinct offense, whether or not any other specific violations are cited.

##### **Enforcement Assessment:**

In the event of a violation of this Ordinance, any costs of enforcement, including administrative expense and legal expense incurred in the enforcement proceedings may be assessed against the party found to have violated the Ordinance. Within forty-five (45) days after the conclusion of a civil or criminal case, Bemidji Township may certify the costs of enforcement for assessment against the violator's property where the violator has either been found to have violated this Ordinance by the Court or has admitted the violation.

The Town Clerk shall prepare a bill for the amount certified. The Town Clerk shall mail a copy by certified mail to the violator's last known address or the violator' s address of record with the



Beltrami County Auditor' s office. In the event the bill is not paid in full within thirty (30) days of receipt of mailing, Bemidji Township may certify the bill as any other special assessment.

The violator may appeal the certification of the costs to the Bemidji Town Board by filing an objection to the assessment within fifteen (15) days upon receipt of the notice of the certification. The appeal must include a detailed explanation of the objection.

#### **Article 15 - Conflict of Other Laws**

When any provision of this Ordinance imposes requirements more restrictive than required by existing laws of the State of Minnesota, any Ordinance of Beltrami County, Minnesota or the Mississippi Headwaters Conservation Ordinance, the provisions of this Ordinance shall govern within the boundaries of Bemidji Township.

#### **Article 16 - Severability and/or Validity**

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

1. If any court of competent jurisdiction shall adjudge any provisions of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.
2. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building or structure, such judgment shall not affect other property, buildings or structures.

#### **Article 17 - Effective Date**

This Ordinance shall take effect and be in force from and after its passage, posting and recording according to la w. Copies of this Ordinance shall be kept by the Town Clerk and shall be available for public inspection. In addition, copies of the official zoning map shall be kept by the Town Clerk and shall be available for public inspection.

A copy of this Ordinance shall be recorded in the office of the County Recorder of Beltrami County upon adoption and any amendments thereto shall likewise be recorded with the County Recorder of Beltrami County, Minnesota.

March 17, 1977, and including amendments passed July 21 19 77; June 21, 1979; October 15, 1981 May, 17, 198 4; October 9 198 4; September 8 1986; February 13, 1989; March 11, 1996; April 13, 1999, March 9, 2000; July 1, 2001; February 12, 2002; (editorial changes) May 12, 2003; June 14, 2004 and February 11, 2014, July 3, 2017, June 11, 2019