

**Article XII. Administration and Enforcement.****Section 20-206. Purpose.**

The following sections outline the major zoning procedures for implementation of the Zoning Ordinance.

**Section 20-207. Zoning Administrator.**

The office of the Zoning Administrator is hereby established, for which the Town Board may appoint such staff as it may deem proper. The term of office of the zoning administrator shall be indefinite and shall terminate at the pleasure of the Town Board.

(a) Duties. The zoning administrator shall:

1. Enforce and administer the provisions of this Chapter.
2. Issue permits and maintain records thereof.
3. Receive, and forward to the Planning Commission, applications for conditional use permits, subdivision plats, interim use permits, site plans, petitions for amendment of this Chapter, including rezoning;
4. Receive and forward applications and petitions for matters to come before the Board of Adjustment;
5. Maintain the township zoning map as amended from time to time by ordinance of the Town Board;
6. Conduct inspections to determine compliance with the provisions of this Ordinance;
7. Serve as an ex-officio member of the planning commission;
8. Such other matters and responsibilities as the Town Board may assign from time to time;
9. Collect all fees required by this Ordinance; and
10. File for record with the county recorder or registrar of titles all documents required to be filed by law.

**Section 20-208. Building Permit Required.**

(a) Scope. From and after the effective date of this Chapter, it shall be unlawful to proceed with the construction, placement or enlargement of any building or

structure, without first obtaining a building permit, unless such building or structure is exempted from this provision in the Minnesota Building Code. Accessory agricultural buildings, as defined in Minn. Stat. §273.13, subd. 23, as amended, shall require a site permit.

- (b) Application. Requests for a building permit shall be filed with the Zoning Administrator on an official application form. Each application for a permit shall be accompanied by a site and floor plan drawn to scale showing the dimensions of the lot to be built upon, the size and location of all principal and accessory buildings and parking area and such additional information deemed necessary for the proper review and enforcement of this Chapter and any other applicable building code.
- (c) Issuance of Permit. The Building Official shall direct the Zoning Administrator to issue the building permit only when the plans comply with this Chapter and other applicable laws, regulations and ordinances. The Zoning Administrator may deny a permit for the construction of any building upon land that, according to the information furnished, is too low for proper drainage, or otherwise deemed unsuitable for building through provisions of this Chapter.
- (d) Normal Maintenance. No building permit shall be required for normal maintenance.
- (e) Completion of Work. The work for which a building permit is issued shall commence within six (6) months after the date thereof unless an application for an extension has been submitted and approved. The work shall be completed within one year unless an application for an extension has been submitted and approved by the Zoning Administrator.

Section 20-209. **Fees**.

- (a) Base Fee. To defray administrative costs of processing requests for site permits, conditional uses, interim uses, amendments, preliminary and final plats, and variances or appeals, a base fee per application shall be paid by all applicants in accordance with a fee schedule adopted by ordinance of the Town Board.
- (b) Other Fees. In order to defray any additional cost of processing applications (site permit, amendment, conditional use, interim use, variance, appeal, preliminary or final plat) for developments, all applicants shall pay the total cost of staff and/or consulting time spent exclusively in producing materials for the applicant's request and all materials for said request.

1. “Materials” shall include, but are not limited to, maps, graphs, charts, drawings, developer’s agreements, etc. and all printing or reproduction of same.
  2. “Staff and/or consulting time” shall include any time spent in either researching for or actual production of materials, either by Township staff, Township legal, engineering or planning consultants, or the Township attorney.
  3. The hourly rate for “staff and/or consulting time” shall be established and made available to the applicant by the Zoning Administrator prior to the production of materials and the applicant shall be given a reasonable estimate of project time and/or material costs.
- (c) Payment. Fees shall be payable at the time the application is filed with the Zoning Administrator and are not refundable unless the application is withdrawn prior to referral to the Planning Commission. A deposit to cover staff or consulting time and special materials will be established and required by the Zoning Administrator prior to referral to the Planning Commission. If a request is withdrawn prior to the Planning Commission meeting but after public notice, the cost of the public notice shall be borne by the applicant.

Section 20-210. **Planning Commission.**

- (a) Establishment of Planning Commission. The Athens Township Planning Commission, as currently established, is re-established by the Town Board’s adoption of this Chapter.
- (b) Conflict of Interest. Any planning commission member who has a conflict of interest on any issue before the commission shall not be allowed to participate as a commission member on that issue. Any question of whether the particular issue involves a conflict of interest sufficient to disqualify a commission member from acting thereon shall be decided by majority vote of all commission members present except the member who is being challenged.

Section 20-211. **Board of Adjustment and Appeals.**

- (a) Establishment of the Board of Adjustment. The Town Board shall act as the Board of Adjustment.
- (b) Powers and Duties. The Board of Adjustment shall have the following duties:
  1. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of this Chapter.

- a. Actions of the Planning Commission and the Town Board shall not be appealable to the Board of Adjustment.
  - b. The appeal shall be made by filing written notice thereof with the Zoning Administrator not more than **fourteen (14)** days after the order, requirement, decision or determination appealed from.
  - c. The notice of appeal shall be in writing and shall specify the grounds thereof.
  - d. The filing fee established by the Town Board shall be paid to the zoning administrator at the time of filing the notice of appeal as a condition of perfecting the appeal.
2. To hear requests for variances from the literal provisions of this Chapter in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration.
- (c) Application. Application for a variance shall be made to the Board of Adjustment on forms provided by the Zoning Administrator by filing such application and paying the filing fee to the Zoning Administrator. The Zoning Administrator shall fix a reasonable time for the hearing on the application and give notice thereof as required by law.
  - (d) Other Powers. The Board of Adjustment shall have such other powers and duties as are assigned to it by law.
  - (e) Findings of Fact. Separate written findings of fact shall be made by the Board of Adjustment for each variance granted or denied and for each appellate decision made.

Section 20-212. **Variances**.

- (a) Criteria for Granting Variances. A variance may be granted from the requirements of this ordinance including restrictions placed on nonconformities.
  1. Variances shall only be permitted when:
    - a. The proposed use is in harmony with the general purpose and intent of the zoning ordinance; and
    - b. The proposed variance is consistent with the comprehensive plan; and

- c. The proposed variance is not due to economic considerations alone.
  2. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. A variance granted under this sub-section shall also meet the standards in subpart (1) above.
    - a. Practical difficulties means :
      - (1) That the property owner proposes to use the property in a reasonable manner not permitted by this ordinance; and
      - (2) That the plight of the landowner is due to circumstances unique to the property not created by the landowner; and
      - (3) The proposed variance, if granted, will not alter the essential character of the locality.
    - b. Practical difficulties also includes inadequate access to direct solar energy systems.
  3. Variances must be granted for earth sheltered construction as defined in state law when such construction is in harmony with this ordinance.
  4. No variance may be granted that would allow any use that is not allowed in the zoning district in which the property is located.,
  5. The Township may impose conditions in the granting of a variance. A condition of approval must be directly related to and must bear a rough proportionality to the impact created by granting the variance.

(b) Procedure.

1. The person applying for a variance shall fill out and submit to the Zoning Administrator a variance application that shall include a statement of the practical difficulties claimed, along with the filing fee.
2. The Zoning Administrator shall refer the application along with all related information to the Planning Commission acting in an advisory role to the Board of Appeals.
3. The Planning Commission shall hold a public hearing on the proposal. Notice of the time, place and purpose of the public hearing shall be according to Minn. Stat. § 462.354, Subd. 2, as amended.

4. The petitioner or his representative shall appear before the Planning Commission at the public hearing in order to present evidence concerning the proposed variance.
5. The Planning Commission may recommend the imposing of conditions on the granting of variances to ensure compliance and to protect adjacent properties and the public interest. The Board of Adjustment may place additional conditions upon the issuance of a variance.
6. The Planning Commission shall make findings of fact and recommend to the Town Board (acting as the Board of Adjustment) such actions or conditions relating to the request. Such findings shall be entered in and made a part of the written record of the Board of Adjustment.
7. Upon receiving the report and recommendation of the Planning Commission, the Town Board, acting as the Board of Adjustment, shall place the report on the agenda for the next regular meeting.
8. Upon receiving the report and recommendation of the Planning Commission, the Town Board, acting as the Board of Adjustment, shall either:
  - a. Approve or disapprove the request as recommended by the Planning Commission; or
  - b. Approve or disapprove the recommendation 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
  - c. Refer the recommendation back to the Planning Commission for further consideration. This procedure shall be followed only one time for each variance request. If the request is referred back to the Planning Commission, the applicant shall be notified of the extension of time line for action on the request.
9. Approval of variances or appeals shall require approval by a 2/3rds vote of the full board. The Zoning Administrator or Town Clerk shall notify the applicant of the Town Board's action.
10. Decisions of the Planning Commission shall be advisory to the Town Board. The decisions of the Town Board, acting as the Board of Adjustment, shall be subject to judicial review.
11. No resubmission of a variance application will be allowed for six (6) months without new evidence related to the variance.

12. Granted variances become void if the applicant does not proceed substantially on the work related to the variance within six (6) months. To proceed substantially means to make visible improvement to the property. One or more extensions of not more than six (6) months each may be granted by the Board of Adjustment for good cause.
13. Applications for variances will not be accepted from anyone who is not an owner of the land for which the application is made.
14. All variances that are granted by the Town Board must be recorded at the office of the Isanti County Recorder.

Section 20-213. **Conditional Use Permits.**

- (a) **Purpose of Conditional Use Permits.** A conditional use permit is a zoning device that is intended as a means of reviewing uses that, because of their unique characteristics, cannot be permitted as a right in a particular zoning district, but may be allowed upon demonstration that such use meets identified standards established within this Chapter. A conditional use permit is granted for the particular use of a specific property, and may be transferred to subsequent owners so long as the use does not change and the conditions of approval continue to be met.
- (b) **Criteria for Granting Conditional Use Permits.** In granting a conditional use permit, the Planning Commission and Town Board shall consider the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding lands and water bodies. Among other things, the Planning Commission and the Town Board shall make the following findings where applicable:
  1. The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
  2. The use will be sufficiently compatible or separated by distance or screening from adjacent agriculturally or residentially zoned or used land so that existing property will not be depreciated in value and there will be no deterrence to development of vacant land.
  3. The use, in the opinion of the Planning Commission and Town Board, is reasonably related to the existing land use.

4. The use is consistent with the purpose of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
  5. The use is not in conflict with the Township Comprehensive Plan.
  6. Adequate measures have been or will be taken to minimize traffic congestion in the public streets and to provide for adequate on-site circulation of traffic.
  7. The conditional use will not be detrimental to or endanger the public health, safety, comfort, convenience, or general welfare.
  8. The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
  9. The conditional use will be designed, constructed, operated, and maintained in a manner that is compatible in appearance with the existing or intended character of the neighborhood.
  10. The conditional use, in all other respects, conforms to the applicable regulations in the district in which it is created.
- (c) Conditions of Approval. In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission and Town Board may impose, in addition to the standards and requirements expressly specified by this Chapter, additional conditions that the Planning Commission and Town Board consider necessary to protect the best interests of the surrounding area of the community as a whole. These conditions may include, but are not limited to, the following:
1. Increasing the required lot size or yard dimensions;
  2. Limiting the height, size or location of buildings;
  3. Controlling the location and number of vehicle access points;
  4. Increasing the street width;
  5. Increasing the number of required off-street parking spaces;
  6. Limiting the number, size, location or lighting of signs;

7. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property; and
8. Designation of open space.
9. Annual review may be required if deemed appropriate by the Town Board.

Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued, shall require an amendment to the existing conditional use permit and all procedures shall apply as if a new 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 and the Town Board, time limits, review dates, and such other information as may be appropriate.

(d) Procedure.

1. Applications for conditional use permits will not be accepted from anyone who is not an owner of the land for which the application is made.
2. The person applying for a conditional use permit shall fill out and submit to the Zoning Administrator a conditional use permit application form and shall submit a filing fee.
3. The Zoning Administrator shall refer the application to the Planning Commission for review.
4. The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be as provided by Minn. Stat. § 462.3595, as amended. The Planning Commission shall forward its recommendation to either deny or approve the Conditional Use Permit to the Town Board. The Town Board shall take final action on the request.
5. The petitioner or his representative shall appear before the Planning Commission in order to present evidence concerning the proposed conditional use.
6. If the Planning Commission recommends granting the conditional use permit, it may recommend conditions it considers necessary to protect the public health, safety and welfare.
7. 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 permits shall include requests for changes in conditions and as otherwise described in this Chapter.

8. No application for a conditional use permit shall be resubmitted for a period of six (6) months from the date of said order of denial.
9. Granted conditional use permits shall become void if the applicant does not proceed substantially on the work within six (6) months, if applicable. To proceed substantially means to make visible improvement to the property. One or more extensions for not more than six (6) months each may be granted by the Town Board for good cause.
10. If the land does not conform to the conditions of the permit, the conditional use permit may be revoked after notice to the applicant of a public hearing for the intended revocation and passage of a resolution by the Town Board to that effect.
11. All conditional use permits that are granted by the Town Board shall be recorded at the office of the Isanti County Recorder.

Section 20-214. **Interim Use Permits.**

- (a) Purpose of Interim Uses. An interim use is a use not currently allowed by this Chapter, which may be allowed as a temporary use of property until an established date, until the occurrence of a particular event, or until the zoning regulations no longer allow it.
- (b) Criteria for Granting Interim Use Permits. In granting an interim use permit, the Planning Commission and Town Board shall consider the effect of the proposed use upon the health, safety, morals, and general welfare of the occupants of surrounding lands and water bodies. Among other things, the Planning Commission and Town Board shall make the following findings where applicable:
  1. The proposed use meets the applicable standards set forth for conditional use permits;
  2. The proposed use will terminate upon a date or event that can be identified with certainty;
  3. The proposed use will not impose additional costs on the public if it is necessary for the public to take the property in the future;
  4. The proposed use will be subjected to, by agreement with the owner, any conditions that the Town Board deems appropriate for permission of the proposed use, including a condition that the owner will provide an

appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit; and

5. The interim use will be subject to review by the Town upon change of ownership.

(c) Termination. An interim use permit shall terminate upon the occurrence of any of the following events, whichever comes first:

1. The date or event stated in the permit; or
2. A violation of the conditions under which the permit was issued; or
3. The use has been discontinued for a minimum of one (1) year.

If it is believed that an interim use has terminated, the Planning Commission and Town Board shall take action to revoke the permit, including notification to the property owner of the Town's intent to revoke the permit.

(d) Conditions of Approval. In permitting a new interim use or the alteration of an existing interim use, the Planning Commission or Town Board may impose, in addition to the standards and requirements expressly specified by this Chapter, additional conditions which the Planning Commission and Town Board consider necessary to protect the best interests of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

1. Increasing the required lot size or yard dimension;
2. Limiting the height, size or location of buildings;
3. Controlling the location and number of vehicle access points;
4. Increasing the street width;
5. Increasing the number of required off-street parking spaces;
6. Limiting the number, size, location or lighting of signs;
7. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property; and
8. Designation of open space.

9. Annual review may be required if deemed appropriate by the Town Board.

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

(e) Procedure.

1. Applications for interim use permits will not be accepted from anyone who is not an owner of the land for which the application is made.
2. The person applying for an interim use permit shall fill out and submit to the Zoning Administrator an interim use permit application form and shall submit a filing fee.
3. The Zoning Administrator shall refer the application to the Planning Commission for review.
4. The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be as provided by Minn. Stat. § 462.3595. The Planning Commission shall forward its recommendation to either approve or deny the Interim Use Permit to the Town Board. The Town Board shall take final action of the request.
5. The petitioner or his representative shall appear before the Planning Commission in order to present evidence concerning the proposed interim use.
6. If the Planning Commission recommends granting the interim use permit, it may recommend conditions it considers necessary to protect the public health, safety and welfare.
7. An amended interim use permit application shall be administered in a manner similar to that required for an interim use permit.
8. No application for an interim use permit shall be resubmitted for a period of six (6) months from the date of said order of denial.
9. Granted interim use permits shall become void if the applicant does not proceed substantially on the work within six (6) months, if applicable. To proceed substantially means to make visible improvement to the property.

One (1) or more extensions of not more than six (6) months each may be granted by the Town Board for good cause.

10. If the land use does not conform to the conditions of the permit, the interim use permit may be revoked after notice to the applicant of a public hearing for the intended revocation and passage of a resolution by the Town Board to that effect. Upon revocation, the Town Board may establish a date when the applicant can reapply for a similar interim use permit. In no case shall the time period to reapply be more than one (1) year.

Section 20-215. **Zoning Amendments.**

(a) Procedure.

1. An amendment to this Chapter or the zoning map may be initiated by the Town Board, the Planning Commission, or by application of a property owner. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the Town Board until it has received the Planning Commission's recommendations or as allowed by Minnesota Statutes. Individuals wishing to initiate an amendment to this Chapter shall fill out a zoning amendment application form and submit it to the Zoning Administrator with a filing fee.
2. Written notice of public hearings on proposed amendments shall be sent to the governing bodies located within the township. Written notice of public hearings regarding the application of official controls to specific properties, including but not limited to, conditional uses, variances, zoning regulations, and subdivision regulations, shall be sent to property owners as follows:
  - a. In the case of variances, to owners of record within 250 feet in the residential and commercial districts, and within one-quarter (1/4) mile in the agricultural districts.
  - b. In the case of conditional uses, to owners of record within 350 feet of the affected property.
  - c. In the case of all other official controls, including, but not limited to, zoning regulations and subdivision regulations, to owners of record within one-quarter (1/4) miles of the affected property.

3. A public hearing on the rezoning application shall be held by the Planning Commission after the request for the zoning amendment has been received. Notice of said hearing shall be published in the official newspaper designated by the Town Board at least ten (10) days prior to the hearing. The Planning Commission shall make its report to the Town Board, at the next regular meeting of the Town Board following the hearing, for recommending approval, disapproval, or modified approval of the proposed amendment.
4. The person making the application shall be notified of the action taken.
5. No application of a property owner for an amendment to the text of this Chapter or the zoning map shall be considered by the Planning Commission within a one (1) year period following a denial of such request, except the Town Board may permit a new application, if in the opinion of the Town Board, new evidence or a change of circumstances warrants reconsideration.
6. Applications for rezoning will not be accepted from anyone who is not an owner of the land for which the application is made.

Section 20-216. **Site Plan Review.**

- (a) **Site Plan Review Required.** Before site permits are issued for the development of multifamily residential, commercial, institutional, or industrial structures, a site plan shall be reviewed by the Planning Commission and approved by the Town Board.
- (b) **Information Required.** A site plan shall be submitted that contains the following information:
  1. A site survey drawing by a registered engineer or land surveyor showing property boundaries and dimensions.
  2. Building locations and dimensions, both existing and proposed, on and within fifty (50) feet of the subject property.
  3. Identification of adjacent land uses.
  4. Adjacent roadways and proposed entrances and exits.
  5. A grading plan.
  6. Parking areas, that indicate the type of surface, arrangement and dimension of spaces, truck loading docks and maneuvering areas,

sidewalks, retaining walls, refuse storage, service areas, and other man-made features.

7. The location of all easements and building and parking setbacks.
8. A utility plan.
9. A development summary indicating lot area, building square footage, lot coverage, building height, number and size of dwelling units (if applicable) and parking spaces provided.
10. Additional information required by the Zoning Administrator, the Planning Commission or the Town Board, as is reasonably required to evaluate the site plan.

- (c) Fees and Approvals. Site plans shall be accompanied by such review fees, including legal, engineering, and planning consulting fees, as are established by the Town Board. In reviewing and acting on site plans, the Planning Commission and the Town Board shall consider the development standards in this Chapter and may disapprove plans which will violate one or more of those standards.

Section 20-217. **Violations, Penalties and Injunctive Relief**.

- (a) Violations and Penalties. It is unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, convert or demolish, equip, use, occupy, or maintain any building or structure in the Township, or cause the same to be done, contrary to or in violation of any provisions of this Chapter or the codes adopted by reference to this Chapter. Any person, firm or corporation violating this Chapter shall be deemed guilty of a misdemeanor and each day that a violation continues shall constitute a separate offense and shall be punishable according to State law.
- (b) Injunctive Relief. In the event of a violation of this Chapter, the Town may institute appropriate actions or proceedings, including requesting injunctive relief, to prevent, restrain, correct or abate such violations. All costs incurred for corrective action may be recovered by the Town in a civil action in any court of competent jurisdiction.

Section 20-218. **Enforcement**.

- (a) This Chapter shall be administered and enforced by the Zoning Administrator, who is hereby designated as the enforcing officer.
- (b) In the event of a violation or a threatened violation of this Chapter, the Town Board, in addition to other remedies, may institute appropriate actions or

proceedings to prevent, restrain, correct, or abate such violations or threatened violations. It is the duty of the Township Attorney, upon direction of the Town Board, to institute such action.

Section 20-219 thru 20-225.

**Reserved.**