

**ARTICLE I—GENERAL PROVISIONS.....I**

<b>SECTION 1.00</b>	<b>SHORT TITLE:</b>	<b>1</b>
<b>SECTION 1.02</b>	<b>PURPOSE AND INTENT:</b>	<b>1</b>
<b>SECTION 1.04</b>	<b>JURISDICTION:</b>	<b>1</b>
<b>SECTION 1.06</b>	<b>SCOPE:</b>	<b>2</b>
<b>SECTION 1.08</b>	<b>INTERPRETATION AND APPLICATION:</b>	<b>2</b>
<b>SECTION 1.10</b>	<b>VALIDITY:</b>	<b>2</b>
<b>SECTION 1.12</b>	<b>ZONING DISTRICTS:</b>	<b>2</b>
<b>SECTION 1.14</b>	<b>OVERLAY ZONING DISTRICTS:</b>	<b>3</b>
<b>SECTION 1.16</b>	<b>OFFICIAL ZONING MAP:</b>	<b>3</b>
<b>SECTION 1.18</b>	<b>DISTRICT BOUNDARIES:</b>	<b>3</b>
<b>SECTION 1.20</b>	<b>BOUNDARIES INTERPRETATION:</b>	<b>3</b>
<b>SECTION 1.22</b>	<b>FLOOD PLAIN DISTRICT BOUNDARY INTERPRETATION:</b>	<b>4</b>
<b>SECTION 1.24</b>	<b>WARNING AND DISCLAIMER OF LIABILITY:</b>	<b>4</b>
<b>SECTION 1.26</b>	<b>BUILDABLE LOTS</b>	<b>4</b>
<b>SECTION 1.28</b>	<b>NON CONFORMING USES:</b>	<b>5</b>
<b>SECTION 1.29</b>	<b>NON-CONFORMITIES WITHIN SHORELAND AREAS:</b>	<b>8</b>
<b>SECTION 1.32</b>	<b>FEES:</b>	<b>9</b>

**AN ORDINANCE REGULATING THE USE OF LANDS AND/OR STRUCTURES IN THE UNINCORPORATED AREAS OF THE TOWNSHIP OF SALEM, COUNTY OF OLMSTED, MINNESOTA, INCLUDING THE REGULATION OF THE LOCATION, SIZE, USE, AND HEIGHT OF STRUCTURES, THE ARRANGEMENT OF STRUCTURES ON LOTS AND THE DENSITY OF POPULATION FOR SAID LANDS, FOR THE PURPOSE OF PROMOTING THE PUBLIC HEALTH, SAFETY, ORDER, CONVENIENCE AND GENERAL WELFARE OF SALEM TOWNSHIP AND REPLACING THE OLMSTED COUNTY ZONING ORDINANCE AND ALL AMENDMENTS THERETO.**

## **ARTICLE 1—GENERAL PROVISIONS**

### **Section 1.00 SHORT TITLE:**

This ordinance shall be known as the Township of Salem, County of Olmsted, Minnesota, Zoning Ordinance and cited as the Zoning Ordinance.

### **Section 1.02 PURPOSE AND INTENT:**

This zoning ordinance is enacted for the following purpose: to implement the Comprehensive Plans and to promote and protect the health, safety, and general welfare throughout Salem Township by lessening congestion in the public right of ways; securing safety from fire, panic and other dangers; providing adequate light and air; facilitating the adequate provision of water, sewerage and other public facilities; conserving the value of properties and encouraging the most appropriate use of the land; and to protecting the environment; pursuant to the authority granted in Minnesota Statutes, Chapter 394.21, as amended, authorizing Township planning and zoning activities, establishing a Board of Adjustment and authorizing the enactment of official controls and providing penalties for the violation thereof, in accordance with the authority granted in Minnesota Statutes, Section 104.05, “Statewide Standards and Criteria for Management of Flood Plain Areas in Minnesota”; and “Statewide Standards and Criteria for Management of Shoreland Areas of Minnesota” and other appropriate Minnesota Statutes.

### **Section 1.04 JURISDICTION:**

The jurisdiction of this zoning ordinance shall apply to all area of Salem Township outside the incorporated limits of municipalities.

- A. The shoreland provisions of this ordinance shall apply to the shorelands of the public water bodies as classified in Section 9.10 (B) of this ordinance. Pursuant to Minnesota Regulations 6120.2500-6120.3900, no lake, pond, or flowage less than twenty-five (25) acres in unincorporated areas need be regulated by the local government’s shoreland regulations. A body of water created by a private user where there was no previous shoreland, may at the discretion of the governing body, be exempt from the shoreland provisions.

**Section 1.06 SCOPE:**

From and after the effective date of this zoning ordinance and subsequent amendments, the use of all land and every building or portion of a building erected, altered in respect to height and area, or portion of a building erected, altered in respect to height and area, added to or relocated, and every use within a building or use accessory thereto in the unincorporated area of Salem Township shall be in conformity with the provisions of this zoning ordinance. Any existing building or structure and any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as non-conforming, but may be continued, extended or changed, subject to the special regulations herein provided with respect to non-conforming uses. (See Section 1.28)

**Section 1.08 INTERPRETATION AND APPLICATION:**

- A. In their interpretation and application, the provisions of this zoning ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and welfare.
- B. Where the conditions imposed by any provision of this zoning ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.
- C. Except as specifically provided in this zoning ordinance, no structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with this ordinance.

**Section 1.10 VALIDITY:**

Should any section or provision of this zoning ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the zoning ordinance as a whole or any part thereof other than the part so declared to be invalid.

**Section 1.12 ZONING DISTRICTS:**

The following zoning districts are provided in order to promote and encourage the efficient economic use of land, buildings, and all usable structures. The unincorporated area of the Township of Salem, County of Olmsted, Minnesota is hereby divided into the districts which shall be known by the following respective symbols and names:

A-2	Agricultural Protection District
A-3	Agricultural District
RSD	Rural Service Center District
RA	Rural Residential District
R-2	Mixed Low Density Residential District
HC	Highway Commercial District
I	Industrial District
AgRC	Agricultural Resource Commercial

**Section 1.14 OVERLAY ZONING DISTRICTS:**

The following overlay zoning districts are also made a part of the zoning ordinance. On property where both the zoning districts (Section 1.12) and the overlay districts would apply, the use or development of such a property shall comply with both the zoning district and the overlay district. The following overlay zoning districts shall be known by the following respective symbols and names:

FW	FLOODWAY DISTRICT
FFA	FLOOD FRINGE DISTRICT
FFB	FLOOD FRINGE DISTRICT
FP	FLOOD PLAIN DISTRICT
	SHORELAND DISTRICT
	DECORAH EDGE
SD	SPECIAL DISTRICTS
	NONE CURRENTLY

**Section 1.16 OFFICIAL ZONING MAP**

The map or maps, which are a part of this zoning ordinance, delineate the boundaries of the zoning districts and represent the approximate boundaries of the overlay zoning districts.

**Section 1.18 DISTRICT BOUNDARIES:**

The boundaries of the zoning district, unless otherwise identified, shall be construed as following property lines, water sources, right-of-way lines, corporate limits of cities, or the centerline of roads.

**Section 1.20 BOUNDARY INTREPRETATION:**

The Salem Township Zoning Administrator shall interpret questions concerning district boundary lines as shown on the official zoning map; such interpretation may be appealed in accordance to Section 4.06.

**Section 1.22 FLOOD PLAIN DISTRICTS BOUNDARY INTERPRETATION:**

The boundaries of the four flood plain districts, FW, FFA, FFB, and FP, shall be determined by elevation and by scaling distances from the Flood Boundary and Floodway Maps (FBFM), dated May 19, 1981 and when appropriate, by the Flood Plain Areas-South Fork, Zumbro River and Tributaries Maps dated October, 1977 and the soils maps contained in the Soil Survey of Olmsted County, Minnesota dated March, 1980. Where interpretation is needed as to the exact location of the boundaries as shown on the previously referenced maps, as for example where there appears to be conflict between a mapped boundary and actual field conditions, the Salem Township Zoning Administrator shall make the necessary interpretation based on elevation of the regional (100 year) flood profile and other technical data.

**Section 1.24 WARNING AND DISCLAIMER OF LIABILITY:**

The degree of flood protection intended to be provided by the zoning ordinance is considered reasonable for regulatory purposes and is based on engineering and specific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams, and bridge openings restricted by debris. The zoning ordinance does not imply that areas outside of designated flood plain districts or land uses permitted within such districts will always be totally free from flooding or flood damages, nor shall the zoning ordinance create a liability on the part of, or be a cause of action against Salem Township or an employee thereof for any flooding or flood damages that may result from reliance on the zoning ordinance.

**Section 1.26 BUILDABLE LOTS:**

A lot that meets the Board of Health regulations and fulfills the criteria specified in one of the following subsections (A) or (B) is considered to be a buildable lot. All other lots, including illegally created lots, shall not be considered buildable lots and no building shall be constructed or placed upon such lots.

- A. BUILDABLE LOTS FOR USES OTHER THAN DWELLINGS:** (These other uses would include agricultural uses such as barns and other agricultural buildings, but would not include a dwelling.)

Lots of Record or newly created lots that meet the lot area, lot width and access requirements of this ordinance. Any newly created lot which does not meet the standards for non-farm dwellings in the zoning district where such lot is located, or the standards for farmstead dwellings shall be designated as an (N.B.) Non-Buildable Lot for Dwelling Purposes on the Official Zoning Map.

Non-conforming lots of record, providing that such lot has recorded access to a public road and the proposed building complies with the regulations in Section 1.28 (B).

**B. BUILDABLE LOTS FOR DWELLING ARE:**

1. A lot that qualifies as a farm.
2. Lots created after the effective date of this ordinance which meet the lot area, lot width, access requirements and either the standards for non-farm dwellings in the zoning district where such lot is located or the standards for farmstead lots or dwellings.
3. Lots of record, providing that such a lot has recorded access to a public road and the proposed building complies with the regulation of Section 1.28 (B).
4. If in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the zoning district lot area, width, or access standards of the zoning district where located, the lots must not be considered as separate parcel of land for purposes of development. The lots must be combined with one or more contiguous lots so they equal one or more parcels of land, each meeting the lot area, width, or access standards to the extent possible

**C. NON FARM LOTS IN AGRICULTURAL DISTRICTS:**

This section of the ordinance applies only to the A-2 and A-3 districts of the zoning ordinance. A lot, as defined in the ordinance, recorded on a single deed is deemed to be a single lot for zoning purposes. If a lot on a single deed is divided by a public right-of-way, thereby creating one or more non-farm sized tracts of land, the property owner must submit an application for a metes and bounds subdivision to create a buildable lot for a dwelling. The metes and bounds subdivision must be approved using the provisions 1)Standards for a Non-Farm Dwelling under the applicable zoning district, 2) the requirements of Section 1.26(B), and 3) the applicable zoning district General Regulations.

**Section 1.28 NON-CONFORMING USES**

The lawful use of land or structures existing at the time of the adoption of this zoning ordinance may be continued although such use does not conform with the district provisions herein, subject to the following provisions.

- A. **LAND:** The non-conforming use of land shall not in any way be expanded or extended either on the same or adjoining property.
- B. **LOT OF RECORD:** A non-conforming lot of record may be used for any principal use permitted in the zoning district in which the lot is located, provided that for any use which is to be served by an individual well and/or septic system, the non-conforming

lot shall be of a size and design to meet the minimum requirements of the Board of Health regulations for such wells and septic systems.

- C. STRUCTURE, ENLARGEMENT OR ALTERATIONS:** No non-conforming structure may be enlarged or altered in any way which increases its non-conformity. No addition or modification to a use within a flood fringe or floodway district shall increase the flood damage potential of the structure or increase the degree of obstruction to flood flow. No addition or modification to a non-conforming structure with a conforming use, over the life of the structure, within a flood fringe or floodway district shall exceed fifty (50%) percent of its current market value as determined by the Olmsted County Assessor's records, unless the entire structure is made conforming.
- D. STRUCTURE, DAMAGE OR DESTRUCTION:** If a non-conforming structure is destroyed by any means to an extent of more than fifty (50%) percent of its current market value, as determined by the Olmsted County Assessor's records at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the zoning code. If destroyed to less than fifty (50%) percent of its market value, said restoration shall begin within twelve (12) months or the structure shall be made conforming.
- E. STRUCTURE, RELOCATION:** If a non-conforming structure is moved any distance, for any reason whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- F. USE, CHANGE:** Whenever a non-conforming use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed back to a non-conforming use.
- G. USE, DISCONTINUANCE:** In the event that a non-conforming use of any structure or structure and land is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.
- H. USE, ZONE CHANGE:** The foregoing provisions relative to non-conforming uses shall apply to buildings, land and uses which hereafter become non-conforming due to classification or reclassification of districts under this ordinance.
- I. USE, CHANGE IN:** Any non-conforming use of land may be changed to another non-conforming use of the same nature or less intensive nature if no structural alterations are involved and if it is found that the relation of the structure and proposed use to surrounding property is such that adverse effects on the occupants and neighboring property will not be greater than if the original non-conforming use continued. Approval for such a change shall be through the approval of a Conditional Use Permit that has considered the following factors:

1. The character and history of the use and of development in the surrounding area.
2. The comparable degree of noise, vibration, dust, odor, fumes, glare, or emissions detectable at the property line.
3. The comparative numbers and kinds of vehicular trips to the site.
4. The comparative amount and nature of outside storage, loading, and parking.
5. The comparative visual appearance.
6. The comparative hours of operation.
7. The comparative effect on existing vegetation.
8. The comparative effect on water drainage.
9. The comparative effect on the environment,
10. Other factors which tend to reduce conflicts of incompatibility with the character or need of the area.

**J. USE-EXPANSION OF NONCONFORMING:** Nonconforming commercial, industrial or institutional uses in any nonresidential district and any residential uses in any residential district may be modified or expanded in certain situations subject to approval as a Conditional Use. In acting on an application for modifying or expanding a nonconforming use, the Township Planning Commission shall use the Section 1.28, 1. criteria to determine the impact of modifying or expanding the nonconforming use. A proposal where the Township Planning Commission finds significant injurious impact should be denied or approved with conditions, which will mitigate the impact of the modification or expansion.

Potential modifications or expansions which the Township Planning Commission may consider, shall include:

1. Rebuilding of a structure devoted to a nonconforming use if destroyed to an extent greater than fifty (50%) percent of the replacement value of the structure.
2. Expanding a nonconforming use of a structure to a portion of the structure not manifestly arranged or designed for such use at the time the use became nonconforming.
3. The addition of new principal buildings or accessory structures on the same parcel of land occupied or under the same ownership on the effective date



that the use became nonconforming. The new structures added must be for such purpose that if not associated with the nonconforming use they would be permitted by the zoning district on the property. The applicant must show that the intensity of the use will not substantially increase over the current level of activity with the addition of the new structures.

## **Section 1.29 NONCONFORMITIES WITHIN SHORELAND AREAS**

### **A. CONSTRUCTION ON NONCONFORMING LOTS OF RECORD**

1. Lots of record in the office of the County recorder on the date of enactment of local shoreland controls that do not meet the minimum lot area and width standards of the underlying zoning district may be allowed as buildable lots, provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements are met.
2. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
3. If in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the underlying zoning district lot area and width standards, the lot must not be considered as a separate parcel of land for sale or purposes of development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the lot area and width standards to the extent possible.

### **B. ADDITIONS/ EXPANSIONS TO NONCONFORMING STRUCTURES**

1. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback and height requirements of this ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Section 4.08.
2. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
  - a. The structure existed on the date the structure setbacks were established;

- b. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
- c. The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and
- d. The deck is constructed primarily of wood, and is not roofed or screened.

**C. NONCONFORMING SEWAGE TREATMENT SYSTEMS**

- 1. An existing individual sewage treatment system, which is nonconforming according to Minnesota Rules, Chapter 7080 (and amendments thereto), shall be upgraded to meet the requirements of Olmsted County Public Health Regulation # 41, and amendments thereto. Upgrading shall occur, at a minimum, any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

**Section 1.32 FEES:**

There shall be fees established for items of this ordinance as established from time to time by resolution of the Salem Town Board.