MEMORANDUM OF UNDERSTANDING
BETWEEN THE COUNTY OF STEARNS
AND THE
TOWN OF AVON

WHEREAS, Stearns County Land Use and Zoning Ordinance, Number 209 was effective April 21, 2000; and

WHEREAS, Town of Avon has adopted a zoning ordinance, entitled "Avon Township Land Use and Zoning Ordinance Number 2" which is duly recorded in the Office of the Stearns County Recorder; and

WHEREAS, Minnesota Statutes, Section 394.33 provides that after the adoption of official controls for a county by the Board of County Commissioners, "Board", no town shall enact or enforce official controls inconsistent with or less restrictive than the standards prescribed in the official controls adopted by the Board; and

WHEREAS, It has been determined that specified provisions of the Town of Avon's zoning ordinance entitled "Avon Township Land Use and Zoning Ordinance Number 2" are consistent with, as restrictive or more restrictive than Stearns County Land Use and Zoning Ordinance Number 209; and

WHEREAS, the County of Stearns ("County") and Town of Avon ("Town") recognize the importance of cooperating on land use issues in order to: promote and protect the public health, safety, welfare and morals; promote and provide for the orderly development of agricultural, residential, commercial, industrial, recreational and public areas and land uses; preserve agricultural land and animal agriculture; conserve natural and scenic areas of the County; conserve natural resources and open space; and provide official controls to implement the goals and policies included in the respective comprehensive plans of the respective units of government; and

WHEREAS, the County and Town desire to enter into a Memorandum of Understanding in order to provide an opportunity to cooperate in administering zoning within the County for the purpose of ensuring better consistency in land use regulations and in the implementation of those regulations; and

WHEREAS, County and Town desire to enter into a Memorandum of Understanding to ensure mutual understanding of each party to this Memorandum of their respective duties and responsibilities related to land use issues; and

WHEREAS, the permitting process may involve provisions enforced by the County and provisions enforced by the Town.

NOW THEREFORE IT IS AGREED, by the County of Stearns and the Town of Avon that those sections of Stearns County Land Use and Zoning Ordinance Number 209; or successor ordinance enacted by reference as a part of Avon Township Land Use and Zoning Ordinance Number 2 shall apply within the Town of Avon.

IT IS FURTHER AGREED, by the County of Stearns and the Town of Avon to cooperate in administering their land use controls as set out in Attachment 1 of this Memorandum of Understanding.

County of Stearns

Date: _____ By: _____
Donald R. Otte, Chair
Stearns County Board of Commissioners

Date: _____ Attest: _____
Randy R. Schreifels
Stearns County Auditor-Treasurer
Clerk
Stearns County Board of Commissioners

Town of Avon

Date: 6/26/02 By: _____
Chair

Date: 6/28/02 Attest: _____
Clerk

ATTACHMENT 1

A. *Land Use and Zoning Ordinance Provisions*

1. All structures shall be setback 60 feet from the road right-of-way of all Township roads, County roads, minor collectors and major collectors.

2. The minimum lot size requirement shall be one acre in all zoning districts.

3. Township does not allow communication towers to be artificially illuminated.

4. Township will not allow R-10 and R-20 zoning districts.

5. **Accesses on any township road shall require a permit from the Township Board of Supervisors.**

B. *Administrative Provisions*

1. The Town shall issue all permits for the following permitted or permitted accessory uses outside of any Shoreland or Floodplain Overlay District of the Town: agricultural accessory structures (except animal feedlots) and residential accessory structures.

2. The Town shall conduct public hearings for the purposes of considering interim use permits and conditional use permits for all uses allowed by interim use permit or conditional use permit outside of any Shoreland or Floodplain Overlay District, except animal feedlots.

3. The Town shall issue all permits, and conduct site inspections for each permit issued for any structure or use allowed in items 1-2 above and provide the County with copies of permits and inspection reports for any permit issued therefore on a monthly basis.

4. The Town shall conduct public hearings and act on all variances for structures for which the Town issues permits, unless otherwise noted in this memorandum of understanding.

5. The Town shall conduct public hearings and act on all variances for the purposes of considering variance applications relating to setbacks from Township roads.

6. The Town shall not act on any permit or variance within the Shoreland Overlay District unless the sewage system has first been certified.

7. The County shall conduct public hearings and act on all variances for the purposes of considering variance applications relating to setbacks from County highways.

8. The County shall issue all permits and act on all variances not specifically enumerated in sub-items 1 through 7 herein. Additionally, the County shall administer and enforce all provisions of Stearns County Ordinance Number 209; or successor ordinances that are not specifically administered or enforced by the Town through this memorandum of understanding.

C. ***Respective Duties and Responsibilities***

1. The Town shall provide the County with written notice of any public hearing regarding a conditional use permit, interim use permit or variance and a copy of the conditional use permit, interim use permit or variance application at least 7 days prior to the public hearing.

2. The County shall provide the Town with written notice of any public hearings regarding a conditional use permit, interim use permit, rezoning request or variance and a copy of the conditional use permit, interim use permit, rezoning request or variance application at least 10 days prior to the public hearing.

3. The Town shall provide the County with copies of variances, conditional use permits, or interim use permits granted pursuant to Avon Township Land Use and Zoning Ordinance Number 2 and the related findings of fact at the time the applicable document is recorded with the County Recorder.

4. The County shall provide the Town with copies of all construction site permits, variances, conditional use permits or interim use permits granted pursuant to Stearns County Land Use and Zoning Ordinance Number 209; or successor ordinance, including related findings of fact, on a monthly basis.

5. The Town shall provide the County with copies of all construction site permits, along with the inspection report, issued pursuant to Avon Township Land Use and Zoning Ordinance Number 2; or successor ordinance on a monthly basis.

6. The County shall provide the Town with copies of all Provisional Uses registered by the County on a monthly basis.

7. The Town shall notify the County of all proposed ordinance changes prior to holding a public hearing.

8. The County shall notify the Town of all proposed ordinance changes prior to holding a public hearing.

9. If an ordinance change or rezoning occurs, the County and Town shall review this memorandum of understanding for potential changes.

10. This Memorandum of Understanding may be terminated by mutual agreement, however, if the parties are unable to mutually agree, then any party can unilaterally without cause terminate the Memorandum of Understanding on ninety (90) days written notice.

AVON TOWNSHIP
LAND USE AND ZONING ORDINANCE
NUMBER 2

THE AVON TOWNSHIP BOARD OF SUPERVISORS ORDAINS:

SECTION 1 PURPOSE, AUTHORITY AND JURISDICTION

1.1 Title

This Ordinance shall be known, cited, and referred to as the "Avon Township Land Use and Zoning Ordinance". When referred to herein, it shall be known as "this Ordinance".

1.2 Statement of Purpose

This Ordinance is adopted for the purpose of:

A. Protecting and promoting the public health, safety, welfare and morals.
B. Promoting and providing for the orderly development of agricultural, residential, commercial, industrial, recreational and public areas and land uses.
C. Preserving agricultural land and animal agriculture.
D. Conserving natural and scenic areas of the Township.
E. Conserving natural resources and open space.
F. Providing official controls to implement the goals and policies included in the Avon Township Comprehensive Plan and/or the Stearns County Comprehensive Plan.

1.3 Statutory Authorization

This Ordinance is adopted pursuant to the authorization and policies contained in *Minnesota Statutes, chapter 366; or successor statutes and Minnesota Statutes, chapter 462; or successor statutes.* In the event the provisions of Chapter 462 and Chapter 366 are in conflict or are inconsistent as applied to the terms of this Ordinance, the provisions of Chapter 462 shall prevail.

1.4 Jurisdiction

This Ordinance shall apply to all areas in Avon Township, Minnesota:

A. Except areas within the incorporated limits of any city, however organized, except as provided by law; and
B. Except as otherwise provided by law.

SECTION 2 GENERAL PROVISIONS

2.1 Abrogation and Greater Restrictions

It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

2.2 Severability
If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

2.3 Interpretation
In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Township and shall not be deemed a limitation or repeal of any other powers granted by State Statute.

2.4 Compliance
No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used, for any purpose or in any manner, which is not in conformity with this Ordinance.

SECTION 3 DEFINITIONS

3.1 Adoption by Reference
That *Section 3 of Stearns County Ordinance Number 209; or successor ordinance*; is hereby adopted by reference except that "Board or Town Board" shall mean the Township Board of Supervisors, "Planning Commission" shall mean the Township Planning Commission and "Board of Adjustment" shall mean the Township Board of Adjustment.

SECTION 4 ADMINISTRATION

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

4.2 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.

4.2.1 Duties The Zoning Administrator shall:

(a) Enforce and administer the provisions of this Ordinance.
(b) Issue permits and maintain records thereof.
(c) Receive, and forward to the Township Planning Commission, applications for conditional use permits, subdivision plats, and petitions for ordinance amendments, including rezoning.
(d) Receive and forward applications and petitions for matters to come before the Board of Adjustment.
(e) Maintain the township zoning map

(f) Conduct inspections to determine compliance with the provisions of this Ordinance.
(g) Serve as an ex-officio member of the planning commission.
(h) Such other matters and responsibilities as the Town Board may assign from time to time.
(i) Collect all fees required by this Ordinance; and
(j) File for record with the Stearns County Recorder or Registrar of Titles all documents required to be filed by law.

4.3 Site Permit Required

4.3.1 Scope. From and after the effective date of this Ordinance, it shall be unlawful to proceed with the construction, placement or enlargement of any building or structure without first obtaining a site permit.

4.3.2 Application. Requests for a site 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 areas and such additional information deemed necessary for the proper review and enforcement of this Ordinance and any other applicable building codes.

4.3.3 Issuance of Permit. The Zoning Administrator shall issue the site permit only when the plans comply with this Ordinance and other applicable laws, regulations and ordinances. The Zoning Administrator may deny a permit for the construction of any building upon grounds which, according to the information furnished, is too low for proper drainage, or otherwise deemed unsuitable for building through provisions of this Ordinance.

4.3.4 Normal Maintenance. No land use permit shall be required for normal maintenance.

4.3.5 Completion of Work. The work for which a land use 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.

4.4 Fees

4.4.1 Base Fee To defray administrative costs of processing requests for site permits, conditional uses, interim uses, amendments, variances or appeals, a base fee per application shall be paid by all applicants in accordance with a fee schedule adopted by resolution of the Town Board.

4.4.2 Other Fees In order to defray any additional cost of processing applications (site permit, amendment, conditional use, interim use, variance, appeal) for developments, all applicants shall pay the total cost and/or consulting time spent exclusively in producing materials for the applicant's request, and all materials

for said request. Fees that are established pursuant to *Section 4.4.2 of this Ordinance* shall be adopted by resolution of the Town Board.

(a) "Materials" shall include but are not limited to maps, graphs, charts, drawings, developers agreement, etc., and all printing or reproduction of same.

(b) "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.

(c) 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 any materials and the applicant shall be given a reasonable estimate of project time and/or material costs.

4.5 Planning Commission.

4.5.1 Establishment of Planning Commission. The Avon Township Planning Commission, as currently established, is hereby re-established by the Town Board's adoption of this Ordinance.

4.5.2 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.

4.6 Board of Adjustment and Appeals

4.6.1 Establishment of the Board of Adjustment and Appeals. The Town Board shall act as the Board of Adjustment and Appeals "Board of Adjustment".

4.6.2 Powers and Duties.

(a) 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 Ordinance.

1. Actions of the Planning Commission and the Town Board shall not be appealable to the Board of Adjustment.
2. An appeal from any order requirement, decision or determination of any administrative official relating to this Ordinance shall be taken within 14 days after receipt of notice of the order, requirement, decision or determination by filing a notice of appeal.
3. The notice of appeal shall be in writing and shall specify the grounds thereof.
4. The filing fee established by the Town Board shall be paid to the Zoning Administrator at the time of filing the notice of appeal.

(b) To hear requests for variances from the literal provisions of this Ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration.

4.6.3 **Application.** Application for 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.

4.6.4 **Other Powers.** The Board of Adjustment shall have such other powers and duties as are assigned to it by law.

4.6.5 **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.

4.7 Variances

4.7.1 **Criteria for Granting Variances.** The following criteria shall be used when considering a variance application:

(a) The variance shall not allow a use that is prohibited in the zoning district in which the subject property is located.

(b) The variance must be in harmony with the general purpose and intent of this Ordinance.

(c) The terms of the variance must be consistent with the comprehensive plan.

(d) The landowner must show that the variance is necessary to alleviate practical difficulties or particular hardship resulting from strict application of the ordinance.

"Hardship" as used in connection with the granting of a variance means:

1. The property in question cannot be put to a reasonable use if used under the conditions allowed by this Ordinance;
2. The plight of the landowner is due to circumstances unique to the property, not created by the landowner or a previous landowner;
3. The variance, if granted, will not alter the essential character of the locality.

If the variance request meets all of the conditions cited above, the variance may be granted. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this Ordinance. Access to direct sunlight in the case of solar energy systems shall constitute grounds for granting a variance.

4.7.2 **Procedure.**

(a) The person applying for a variance shall fill out and submit to the Zoning Administrator a variance application which shall include a statement of the difficulties or particular hardships claimed, along with the filing fee.

(b) The Zoning Administrator shall refer the application along with all related information to the Planning Commission which shall act in an advisory role to the Board of Adjustment.

(c) The Planning Commission shall hold a public hearing on the request for variance. Notice of the time, place and purpose of the public hearing shall

be according to *Minnesota Statutes, section 462.354 Subd. 2; or successor statute.*

(d) The applicant(s) or their representative shall appear before the Planning Commission at the public hearing in order to present evidence concerning the proposed variance.

(e) The Planning Commission may recommend the imposing of conditions on the granting of variances to insure compliance and to protect adjacent properties and the public interest. The Board of Adjustment may place additional conditions upon the issuance of a variance.

(f) The Planning Commission shall make a finding of facts 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.

(g) Upon receiving the report and recommendation of the Planning Commission, the Town Board, acting as the Board of Adjustment, shall place the request on the agenda for the next regular meeting.

(h) Upon receiving the report and recommendation of the Planning Commission, the Town Board acting as the Board of Adjustment shall either:

1. Approve or deny the request as recommended by the Planning Commission; and
2. Concur or not concur with the Planning Commission with regard to modifications, alterations or conditions that differ from those recommended by the Planning Commission. Such modifications, alterations or conditions that differ from the Planning Commission shall be in writing and made part of the Town Board's records; or
3. 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.

(i) Approval of any variance or appeal shall require passage by a two-thirds (2/3) vote of the full Town Board. The Zoning Administrator or Town Clerk shall give the applicant written notice of the Town Board's action. The written notice shall include the findings of fact.

(j) 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.

(k) No resubmission of a variance application shall be allowed for six (6) months without new evidence related to the variance.

(l) Granted variances become void if the applicant does not proceed substantially on the work 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.

(m) An application for variance will not be accepted from anyone who is not an owner of land for which the application is made.
(n) A certified copy of all variances that are granted by the Town Board shall be filed at the office of the Stearns County Recorder.

4.8 Conditional Use Permits

4.8.1 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 Town Board shall make the following findings where applicable:

(a) 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.
(b) 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.
(c) The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties.
(d) The use in the opinion of the Planning Commission and Town Board is reasonably related to the existing land use.
(e) 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.
(f) The use is not in conflict with the Land Use Plan of the Township and County.
(g) The use will not cause traffic hazards or congestion.

4.8.2 Conditions of Approval. In permitting a new conditional use or the amendment of an existing conditional use, the Planning Commission and Town Board may impose, in addition to these standards and requirements specified by this Ordinance, additional conditions which the Planning Commission and Town Board consider necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

(a) Increasing the required lot size or yard dimension;
(b) Limiting the height, size or location of buildings;
(c) Controlling the location and number of vehicle access points;
(d) Increasing the street width;
(e) Increasing the number of required off-street parking spaces;
(f) Limiting the number, size, location or lighting of signs;
(g) Requiring diking, fencing, screening landscaping or other facilities to protect adjacent or nearby property; and

(h) Designation of open space.
(i) Annual review 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 amended conditional use permit and all procedures shall apply as if a new conditional use permit was being considered. 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 Town Board, time limits, review dates, and such other information as may be appropriate.

4.8.3 Procedure.

(a) An application for a conditional use permit will not be accepted from anyone who is not an owner of land for which the application is made.
(b) The person applying for a conditional use permit shall fill out and submit to the Zoning Administrator a conditional use permit application form and filing fee.
(c) The Zoning Administrator shall refer the application to the Planning Commission for review.
(d) The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be as provided by *Minnesota Statute, section 462.3595; or successor statute.* The Planning Commission shall forward its recommendation to either deny or approve the Conditional Use Permit to the Town Board. The Town Board will take final action on the request.
(e) The applicant(s) or their representative shall appear before the Planning Commission in order to present evidence concerning the proposed conditional use.
(f) 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.
(g) A conditional use permit application to amend an existing conditional use permit shall be administered in the same manner to that required for a new conditional use permit. .
(h) No application for a conditional use permit shall be resubmitted for a period of six (6) months from the date of any order of denial.
(i) Granted conditional use permits shall become void if applicant does not proceed substantially on the work within six (6) months. To proceed substantially means to make visible improvements 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.
(j) A violation of any condition set forth in a conditional use permit shall be a violation of both the permit and this Ordinance. Failure to correct a violation within thirty(30) days of written notice from the Zoning

Administrator shall be grounds to revoke a conditional use permit through the following procedure:

(1) The Zoning Administrator shall give written notice to the permit holder, advising that the conditional use permit may be revoked upon the conclusion of a public hearing. The written notice shall also contain the nature of the violation and the facts that support the conclusions that a violation exists.

(2) The Town Board shall hold a public hearing in the same manner to that required for a new conditional use permit.

(3) Within 30 days of the closing of the public hearing the Town Board shall revoke the conditional use permit, make a finding that a violation does not exist, or modify the conditions of the conditional use permit so that a violation no longer exists.

(4) The Zoning Administrator shall give written notice of the Town Board's decision to the permit holder.

(k) All Conditional Use Permits that are granted by the Town Board shall be recorded at the office of the Stearns County Recorder.

4.9 Interim Use Permits.

4.9.1 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 occupants of surrounding lands and water bodies. Among other things, the Planning Commission and Town Board shall make the following findings where applicable:

(a) The proposed use meets the applicable standards set forth for conditional use permits;

(b) The proposed use will terminate upon a date or event that can be identified with certainty;

(c) 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;

(d) 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

(e) The interim use will be a subject to review by the Town upon change of ownership.

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

(a) The date or event stated in the permit; or

(b) A violation of the conditions under which the permit was issued; or

(c) 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.

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

(a) Increasing the required lot size or yard dimension;
(b) Limiting the height, size or location of buildings;
(c) Controlling the location and number of vehicle access points;
(d) Increasing the street width;
(e) Increasing the number of required off-street parking spaces;
(f) Limiting the number, size, location or lighting of signs;
(g) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property; and
(h) Designation of open space, and
(i) Annual review 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 interim use permit was 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.

4.9.4 Procedure.

(a) Applications for interim use permits will not be accepted from anyone who is not an owner of land for which the application is made.
(b) The person applying for an interim use permit shall fill out and submit to the Zoning Administrator an interim use application form and filing fee.
(c) The Zoning Administrator shall refer the application to the Planning Commission for review.
(d) The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be as provided by *Minnesota Statute, section 462.3595; or successor statute.* The Planning Commission shall forward its recommendation to either deny or approve the Interim Use Permit to the Town Board. The Town Board shall take final action on the request.

(e) The applicant(s) or their representative shall appear before the Planning Commission in order to present evidence concerning the proposed interim use.

(f) 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.

(g) An amended interim use permit application shall be administered in the same manner to that required for a new interim use permit. The fee shall be as set by separate action of the Town Board. Amended interim use permits shall include requests for changes in conditions and as otherwise described in this Ordinance.

(h) 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.

(i) Granted interim use permits shall become void if applicant does not proceed substantially on the work within six (6) months. To proceed substantially means to make visible improvement to the property. On or more extensions for not more than six (6) months each may be granted by the Town Board for good cause.

(j) If the land use does not conform to the conditions of the permit, the interim use permit may be revoked in the same manner as provided for in *Section 4.8.3 j of this Ordinance.*

4.10 Zoning Ordinance Amendments

4.10.1 Public Hearings

A. Public hearings regarding any amendment to the zoning map shall be held by the Stearns County Planning Commission. Upon completion of the public hearing, the Stearns County Planning Commission shall forward the application for final action together with their findings and recommendation of either approval or non-approval to the Stearns County Board of Commissioners.

B. Public hearings regarding any amendment to the text of this Ordinance shall be held by the Board. Amendments shall be consistent with *Stearns County Ordinance Number 209; or successor ordinance*, and the Stearns County Comprehensive Plan.

4.10.2 Application for Change of Text

An application to change the wording of this Ordinance shall be consistent with, as restrictive or more restrictive than the language contained in *Stearns County Ordinance Number 209; or successor ordinance,* and shall include:

A. Reason for the requested change;

B. Statement regarding compatibility with the County Comprehensive Plan; and County Zoning Ordinance;

C. Text portion of the existing language to be amended; and

D. Proposed amended text.

E. Notice to the Stearns County Environmental Services Department of all proposed text amendments.

4.10.3 Application for Change in District Boundary (Rezoning)
Changes to District Boundaries may only be enacted by the Stearns County Board of Commissioners and only upon review and recommendation by the Township Board. Any changes to the District Boundaries enacted by the Stearns County Board of Commissioners shall be considered to be enacted by reference as an official change to the Township Zoning Map.

4.10.4 Notice of Hearing
Notice of hearing for all amendments to the text of this Ordinance shall be given in accordance with *Minnesota Statutes, chapter 462; or successor statutes.*

4.11 Sewage Treatment System Permit
In areas without public sewer facilities, no construction site permit, conditional use permit, interim use permit or provisional use permit for any use requiring on site sewage treatment shall be issued until a sewage treatment system permit has first been issued.

4.12 County Driveway Access Permit
Accesses onto County roads shall require an access permit from the County Public Works Department. This permit shall be issued prior to the issuance of any construction site permit, conditional use permit, interim use permit or provisional use permit when the proposed use involves the installation of a new or additional access onto a County Road. The Public Works Director shall determine the appropriate location, size and design of such accesses and may limit the number of accesses in the interest of public safety and efficient traffic flow.

4.13 Township Driveway Access
Accesses on any township road shall require a permit from the Township Board of Supervisors.

4.14 Feedlot Permit
No person shall operate a new animal feedlot, or modify or expand an existing animal feedlot without first securing either a Feedlot Construction Site Permit or Conditional Use Permit for such Animal Feedlot from the Stearns County Environmental Services Department. A manure storage facility shall be considered a part of any animal feedlot.

4.15 Sign, Off-Premise (Billboard) Permits
A permit shall be required whenever an off-premise sign (billboard) is erected, altered or relocated. Specific requirements, application procedures and exceptions are set forth in *Section 7.20 of this Ordinance.*

4.16 Essential Service, Transmission Service, and Utility Substation Permits

Specific requirements, application procedures and exceptions are set forth in *Section 7.6 of this Ordinance.*

4.17 Compliance

4.17.1 Construction

No structure shall be erected, moved or altered unless in conformity with the standards set forth in this Ordinance.

4.17.2 Use

No structure or land shall be used or occupied for any purpose or in any manner that is not in conformity with the standards set forth in this Ordinance.

4.17.3 Compliance with Approved Plans

Construction and use shall be in accordance with the application, plans, permit, and any applicable variance. Permits, conditional use permits, interim use permits, provisional use permits and certificates of compliance issued on the basis of approved plans and applications authorize only the use and construction set forth in such approved plans and applications and no other use or construction. Any use or construction not in conformance with that authorized shall be deemed a violation of this Ordinance.

4.18 Registration of Provisional Uses

Registration shall be required for any use listed as a provisional use in the primary zoning districts. A copy of the registration shall be forwarded to the Stearns County Environmental Services Department within 30 days of the registration.

4.19 Restoration Orders

4.19.1 Restoration Orders

A restoration order shall be issued by the Board when the Board refuses to issue a permit or when the (Planning Commission) or (Board) refuses to issue a Conditional or Interim Use Permit or when the Board of Adjustment refuses to grant a Variance for a project that was started or completed prior to consideration of the application. A restoration order may also be issued by the Board to correct or abate any violation of the provisions of this Ordinance. The restoration order shall be delivered personally or by certified mail to the landowner and specify the following:

A. A date by which the landowner shall complete restoration and obtain a letter of satisfactory restoration from the Board with a copy sent to the Stearns County Environmental Services Department.
B. The terms of the restoration.
C. Advise the landowner that the failure to comply with the restoration order is a violation of this Ordinance.

4.20 Intergovernmental Communication

To facilitate the joint Township/County permitting process, the following, when issued or granted by the Township, shall be submitted to Stearns County Environmental Services:

A. A copy of all construction site permits.
B. A copy of all interim use permits.
C. A copy of all conditional use permits.
D. A copy of all variances.
E. A copy of all off premise sign permits.
F. A copy of all amendments to the text of this Ordinance.
G. A copy of all public hearing notices regarding variances, conditional use permits and interim uses a minimum of seven (7) days prior to the public hearing.

SECTION 5 NONCONFORMITIES

5.1 Nonconforming Uses, Structures and Lots

Within the primary districts established in this Ordinance or amendments that may later be adopted, certain situations may occur in which an existing use, structure, or lot does not comply with the requirements contained in this Ordinance. It is the intent of this Ordinance to regulate nonconforming situations in such a way that any such nonconformity is managed in accordance with *Sections 5.1.1, 5.1.2 and 5.1.3 of this Ordinance.*

5.1.1 Nonconforming Uses

Nonconforming Use Standards for all Districts

Unless provided otherwise in *Section 5.1 of this Ordinance*, any use existing on the effective date of this Ordinance which is not in conformity with the standards contained in this Ordinance shall only be allowed to continue subject to the following conditions:

A. No such use shall be expanded, enlarged or altered, including any increase in volume, intensity or frequency of use of the property where a nonconforming use exists. Structural alterations, expansions and additions to a structure devoted in whole or part to a nonconforming use are prohibited.
B. A change from one nonconforming use to another nonconforming use is prohibited.
C. A nonconforming use of a parcel of land may not be extended to cover more land than was occupied by that use when it became nonconforming, except a use involving the removal of natural materials such as granite, sand or gravel. A use involving the removal of natural materials may be expanded within the boundaries of the parcel where the use was established at the time it became nonconforming, subject to the standards for mining contained in *Section 7.12 of this Ordinance.*
D. A nonconforming use that has been discontinued for a period of twelve (12) consecutive months shall not be re-established, and any further use shall be in conformity with this Ordinance.

E. If a structure used for a nonconforming use is destroyed by fire or other peril to the extent of 50 percent of its market value, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

5.1.2 Nonconforming Structures

A. Nonconforming Structure Standards for all Districts. Unless provided otherwise in *Section 5.1 of this Ordinance,* any structure existing on the effective date of this Ordinance which is not in conformity with the setback, size or height requirements contained in this Ordinance is a nonconforming structure and may be allowed to continue subject to the following conditions:

(1) Unless provided otherwise in *Section 5.1.2 of this Ordinance*, a nonconforming structure may be altered or expanded. However, the nonconformity shall not be increased. For example, if a setback of a structure is nonconforming, no addition or alteration may be made to the nonconforming side of the structure unless the addition or alteration meets setback requirements.

(2) The replacement of any residential dwelling, that on the effective date of this Ordinance, does not meet the residential dwelling setback from an animal feedlot may be allowed provided the replacement residential dwelling does not further encroach into the nonconforming setback.

(3) Normal maintenance, including non-structural maintenance and repair, except structural alteration of a nonconforming structure, is permitted. However, a nonconforming structure which is destroyed by fire or other peril to the extent of 50 percent of its market value, shall not be restored, repaired or replaced, except in conformity with the provisions of this Ordinance.

(4) Additions or alterations to any residential dwelling unit or Animal Feedlot that was in existence on or before April 21, 2000 and which does not meet the residential setback from an Animal Feedlot or Animal Feedlot setback from a residential dwelling unit may be allowed provided the residential dwelling unit or Animal Feedlot does not encroach into the non-conforming setback by more than 24 feet and further provided that all other setback provisions of this Ordinance are met.

5.1.3 Nonconforming Lots

A. **Parcel of Record**

All lots or tracts, the plat or deed to which has been recorded in the Office of the County Recorder on or before the effective date of this Ordinance shall be considered a Parcel of Record. Except as provided in *Section 5.1.3 C of Stearns County Ordinance Number 209*, a Parcel of Record shall be a legally buildable parcel even though such parcel may not conform to the lot area, lot width or residential density requirements of the

applicable primary or overlay district, provided all of the following are met:

(1) The use is permitted in the applicable zoning district; and
(2) The lot was created compliant with the official controls in effect at the time; and
(3) The applicable setback requirements of this Ordinance are met; and
(4) The sewage treatment system standards contained in *Stearns County Ordinance Number 198; or successor ordinance,* are met.

B. **Residual Parcels**

A parcel of record, as defined in *Section 5.1.3 A of this Ordinance*, that is subsequently reduced to a residual parcel because of a taking or dedication for a public purpose or public right of way shall continue to be considered a parcel of record and shall be considered a legally buildable parcel provided the applicable setback requirements of this Ordinance and the sewage treatment standards contained in *Stearns County Ordinance Number 198; or successor ordinances,* are met.

SECTION 6 PERFORMANCE STANDARDS

That *Section 6 of Stearns County Ordinance Number 209; or successor Ordinance*, is hereby adopted by reference.

SECTION 7 GENERAL DEVELOPMENT STANDARDS

That *Section 7 of Stearns County Ordinance Number 209; or successor Ordinance*, is hereby adopted by reference, except for the following:

That the following is hereby enacted as Section 7.23.2 E:

E. Antennas shall not be artificially illuminated. Guy wires or guy wire anchors shall not be erected within public or private utility and drainage easements, and shall be set back a minimum of five (5) feet from all lot lines. Guy wires within ten (10) feet of the ground surface shall be fenced within an enclosure or maintained with a cover of highly reflective material to prevent accidental collision.

SECTION 8 GENERAL ZONING DISTRICT RULES OF APPLICATION

That *Section 8 of Stearns County Ordinance Number 209; or successor Ordinance*, is hereby adopted by reference, except for the following:

That the following is hereby enacted as Section 8.3.3:

8.3.3 Appeal of District Boundary

Appeals from any determination of the exact location of district boundary lines shall be heard by the Stearns County Board of Adjustment.

That the following is hereby enacted as Section 8.3.7:

8.3.7 Overlay District Administration

Administration of the Overlay Districts shall be as follows:

A. The provisions for the Floodplain Overlay District contained in *Section 10.1 of Stearns County Ordinance Number 209; or successor ordinance*, shall be administered by the Stearns County Environmental Services Department.

B. The provisions for the Shoreland Overlay District contained in *Section 10.2 of Stearns County Ordinance Number 209; or successor ordinance*, shall be administered by the Stearns County Environmental Services Department.

C. The provisions of the Open Space Cluster Development District standards contained in *Section 10.3 of Stearns County Ordinance Number 209; or successor ordinance*, shall be administered by the Stearns County Environmental Services Department.

SECTION 9 PRIMARY DISTRICT PROVISIONS

That Section 9 of Stearns County Ordinance Number 209; or successor ordinance, is hereby adopted by reference, except for the following:

That Sections 9.5 and 9.6 of Stearns County Ordinance # 209 are hereby repealed.

That all structures shall be setback 60 feet from the right-of-way of all Township roads, County roads, minor collectors and major collectors.

The minimum lot size requirement shall be one acre in all zoning districts.

SECTION 10 ENFORCEMENT

10.1 Any person, firm or corporation who violates any of the provisions of this Ordinance, or who fails, neglects or refuses to comply with the provisions of this Ordinance (including violations of conditions and safeguards established in connection with the granting of variances and conditional and interim use permits or failures to comply with restoration orders), or who knowingly makes any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not to exceed $1,000 or by imprisonment not to exceed 90 days or both. Each day that a violation continues shall constitute a separate offense.

10.2 In the event of a violation or a threatened violation of this Ordinance, the Board, in addition to other remedies, may institute appropriate civil actions or proceedings to prevent, prosecute, restore, restrain, correct or abate such violations or threatened violations.

SECTION 11 FEES

To defray the administrative costs of processing requests of this Ordinance, a fee not exceeding administrative costs shall be paid by the applicant. Such fee shall be determined by the Township Board of Supervisors.

SECTION 12 EFFECTIVE DATE

This Ordinance shall be in full force and effect on _____, 2002.

SECTION 13 REPEALER

13.1 The Avon Township Zoning Ordinance, as presently enacted, is hereby repealed.

PASSED BY THE _____ THIS _____ DAY OF _____, 2002.

APPROVED:

_____
Chair

ATTEST:

_____
Clerk