

OCT 29 1973

| | |
|--------|-------------------------------------|
| Adm | <input checked="" type="checkbox"/> |
| Arpts | <input type="checkbox"/> |
| As Ser | <input type="checkbox"/> |
| Ne Ad | <input type="checkbox"/> |
| File | <input type="checkbox"/> |

ORDINANCE NO. 371

AN ORDINANCE ADOPTING A ZONING MAP AND REGULATING THE USE OF LAND AND THE HEIGHT OF STRUCTURE AND TREES WITHIN THE AIRPORT HAZARD AREA OF THE ORTONVILLE MUNICIPAL AIRPORT.

The Council of the City of Ortonville, Minnesota, does ordain:

SECTION 1. Authority. The City Council of the City of Ortonville, Minnesota finds that it is necessary, in order to promote public health, safety and general welfare and to protect the lives and property of the users of the Ortonville Municipal Airport and of the owners and occupants of land in its vicinity to adopt the following Airport Zoning Ordinance as authorized by Laws of Minnesota, 1953, Sections 360.061 through 360.074 inclusive,

SECTION 2. Definitions. As used in this ordinance and the accompanying map, unless the context otherwise requires, the following terms shall have the following meaning:

A. "Airport" means the Ortonville Municipal Airport located in the West Half of Section 10 (10), Township One Hundred Twenty-one (121) North, Range Forty-six (46), West of the Fifth Principal Meridian, Big Stone County, Minnesota.

B. "Airport Hazard" means any structure, tree or use of land which obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport.

C. "Non-Conforming Use" means any structure, tree or use of land which does not conform to the regulations described in this ordinance as of its effective date.

D. "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or similar representative thereof.

E. "Structure" means any object constructed or installed by man including but not limited to, buildings, towers, smoke stacks, and overhead transmission lines.

F. "Tree" means any object of natural growth.

G. "Airport Zoning Map" means the Airport Zoning Map consisting of Three pages dated 10-23-73, together with such amendments thereto as may from time to time be made.

H. "Airport Approach Zones" comprises all lands under the approach surfaces defined in Section 4 hereof.

I. "Airport Transition Zones" comprises all lands under the transitional surfaces as defined in Section 4 hereof.

J. "Airport Turning Zones" comprises all lands under the horizontal and conical surfaces as defined in Section 4 hereof.

K. "Airport Elevation" means the highest point established on the usable airport landing area which elevation is established to be 1100.00 feet above sea level.

L. "Dwelling" means any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

M. "Height" for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

N. "Landing Area" means the area of the airport used for the landing, taking off or taxiing of aircraft.

O. "Landing Strip" means any grass or turf covered area of the airport specifically designated and used for the landing and/or take-off of aircraft. This term shall have the same meaning throughout this Ordinance as does the term "runway".

P. "Non-Instrument Runway" means a runway other than an instrument runway.

Q. "Slope" means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.

R. "Water Surface" for the purpose of this Ordinance shall have the same meaning as land for the established of protected zones.

SECTION 3. Airport Reference Surface, Definition and Description.

In order to carry out the purpose of this ordinance the following imaginary airport reference surfaces are hereby established. Primary Surface, Approach Surfaces, Horizontal Surface, Transitional Surfaces, and Conical Surfaces and are defined as follows:

A. Primary Surface. A surface longitudinally centered on a runway and extending 200 feet beyond each end of the runways. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 500 feet for all runways.

B. Approach Surface. The approach surface is longitudinally centered on the extended runway centerline and extends outward and upward from each end of the runway and its dimensions are measured horizontally.

The inner edges of all approach surfaces are the same width and elevation as, and coincide with the primary surface and extend uniformly to a width of 2,500 feet at a distance of 10,000 feet and continues at the same rate of divergence to the perimeter of the conical surface.

C. Horizontal Surface. The horizontal surface is a horizontal plane 100 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 6,000 foot radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs.

D. Conical Surface. The conical surface extends upward and outward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

E. Transitional Surface. Transitional surface is a surface extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces until they intersect the horizontal surface or conical surface.

SECTION 4. Zones and Airport Zoning Map. In order to carry out the purposes of this ordinance, the following zones are established:

A. Zone A. All that land in the approach areas of the runway which is located within a horizontal distance of one (1) mile from each end of each runway.

B. Zone B. All that land in the approach areas of the runway which is located within a horizontal distance of two (2) miles from each end of the runway and which is not included in Zone A.

C. Zone C. All that land which is within a horizontal distance of two (2) miles from the airport boundary and is not included in Zones A and B.

D. Airport Zoneing Map. The several zones above established are shown on the airport zoning map attached hereto and made a part hereof, which map, together with all notations, references, elevations, data, zone boundaries, and other information thereon, shall be and the same is hereby adopted as part of this ordinance.

SECTION 5. Height Limitations. Except as otherwise provided in the ordinance, and except as necessary and incidental to airport operations, no structure shall be constructed, altered, or maintained so as to project above any of the airport reference surfaces described in Section 3.

SECTION 6. Land Use Restrictions.

A. In General. Subject at all times to the height restrictions set forth in Section 5, no use shall be made of any land in any of the zones defined in Section 4 which created or causes interference with the operations of radio or electronic facilities on the airport or which radio or electronic communities between the airport and aircraft, makes it difficult for pilots to distinguish between airport and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

B. Zone A. Subject at all times to the height restrictions set forth in Section 5, and to the general restrictions contained in subsection 6A, land included in Zone A shall be used for the following purposes only:

(1) For agricultural purposes except that dwellings are prohibited;

(A) Each single commercial or industrial site shall contain no dwellings;

(B) The use shall not permit, require, cause or attract an assembly or concentration, public or private, at any one time, regardless of duration, of more than fifty (50) persons in any commercial building or of more than ten (10) persons in any one acre of such site.

The following uses are specifically prohibited in Zone A: Churches, hospitals, schools, theaters, stadia, and other places of public or semi-public assembly, hotels and motels, trailer courts, camp grounds, and multi-unit dwellings. Other compatible uses for Zone A include: (1) auto parking (2) light recreation (no stadia).

C. Zone B. Subject at all time to the height restrictions set forth in Section 5, and to the general restrictions contained in subsection 6A, land included in Zone B shall be used for the following purposes only:

(1) for agricultural and residential purposes provided there shall not be more than one single family dwelling and accessory buildings (accessory farm buildings may include one single family tenant dwelling) per five (5) acre land tract;

(2) Any commercial or industrial use which meets with the minimum standard, set forth in subsection 6B (2).

D. Zone C. Subject at all times to the height restrictions set forth in Section 5 and to the general restrictions contained in subsection 6A, land included in Zone C may be used for any agricultural, residential, commercial or industrial purposes, subject to the limitation that dwellings are restricted to single family dwellings constructed on not less than one (1) acre lots.

SECTION 7. Non-Conforming Uses. Except that as provided in Section 9, the provisions of Sections 5 and 6 of this ordinance shall not be construed to require the removal, lowering or other change or alteration of any nonconforming use, or otherwise interfere with the continuance of any nonconforming use as of the effective date hereof. Nothing herein contained shall require any change in structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and which is diligently prosecuted and completed within two (2) years thereof.

SECTION 8. Variances; Any person desiring to erect or increase the height of any structure or permit the growth of any tree, or otherwise use his property not in accord with the regulations prescribed in this ordinance may apply to the board of adjustment hereinafter established for a variance from the regulation in question. Such variance shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary with the spirit of the regulations; provided, any variance may be allowed subject to any reasonable condition that the board of adjustment may deem necessary to effectuate the purposes of this ordinance.

SECTION 9. Permits.

(a) Future uses. Except as specifically provided in Paragraphs 1, 2 and 3 hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

(1) In the areas lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than 100 feet of vertical height above the ground, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed for such zone.

(2) In the areas lying within the limits of the approach zone but at a horizontal distance of not less than 4,200 feet from each end of the runways, no permit shall be required for any tree or structure less than 100 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zone.

(3) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 100 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limitations established by this ordinance except as set forth in Section 3.

B. Exist ; Use. Before any existing use r structure may be replaced, substantially altered or repaired or rebuilt within any zone established in Section 3, a permit must be secured authorizing such replacement, change or repair. No permit shall be issued which would allow the establishment or creation of an airport hazard or permit a non-conforming use of structure to be made higher, enlarged, intensified, or become a greater hazard to air navigation than it was on the effective date of this ordinance or than it was when the application for a permit is made.

C. Non-Conforming Uses Abandoned or Destroyed. Whenever the Airport Zoning Board determines that a non-conforming structure or tree has been abandoned, more than 80% torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

SECTION 10. Hazard, Marking and Lighting. Any permit issued, or variance granted, under Sections 8 and 9, may, if such action is deemed advisable to effectuate the purposes of this ordinance and reasonable in the circumstances, be so conditioned as to require the owner of the land or structure in question to permit the City of Ortonville, Minnesota, at its own expense to install, operate and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

SECTION 11. Airport Zoning Administration. The City Clerk of the City of Ortonville, is hereby charged with the duty of administering and enforcing the provisions of this ordinance. The duties of the Clerk shall include that of receiving applications for and the granting or denying of permits as provided in Section 9. The City Clerk shall not have or exercise any of the powers or duties herein delegated to the Board of Adjustment.

SECTION 12. Airport Board of Zoning Adjustments.

A. The planning commission as established by the provisions of City Ordinance No. 222 and Ordinances amendatory thereof the City of Ortonville shall be the Airport Zoning Adjustment Board and shall have and exercise the following powers:

(1) To hear and decide appeals from any order, requirements, decision or determination made by the Airport Commission in the enforcement of this ordinance.

(2) To hear and decide requests for variances.

B. The Board of Zoning Adjustment shall adopt such rules in addition to its existing rules as it deems advisable for its government and procedures so that the same shall be in harmony with the provisions of this ordinance and with the applicable state law. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The Board shall keep minutes of its proceedings, showing the vote of each member on each question or, if absent or failing to vote, indicating such fact, shall keep all records of the examination of witnesses and other official actions all of which shall be immediately filed in the office of the Board and shall be of public record.

C. The Board shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such acts in reversing, affirming, or modifying any matter which shall come before it on appeal.

D. A simple majority vote of the members of the Board of Adjustment shall be sufficient to decide any matter which should come before the Board.

M. "Height" for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

N. "Landing Area" means the area of the airport used for the landing, taking off or taxiing of aircraft.

O. "Landing Strip" means any grass or turf covered area of the airport specifically designated and used for the landing and/or take-off of aircraft. This term shall have the same meaning throughout this Ordinance as does the term "runway".

P. "Non-Instrument Runway" means a runway other than an instrument runway.

Q. "Slope" means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.

R. "Water Surface" for the purpose of this Ordinance shall have the same meaning as land for the established of protected zones.

SECTION 3. Airport Reference Surface, Definition and Description.

In order to carry out the purpose of this ordinance the following imaginary airport reference surfaces are hereby established. Primary Surface, Approach Surfaces, Horizontal Surface, Transitional Surfaces, and Conical Surfaces and are defined as follows:

A. Primary Surface. A surface longitudinally centered on a runway and extending 200 feet beyond each end of the runways. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 500 feet for all runways.

B. Approach Surface. The approach surface is longitudinally centered on the extended runway centerline and extends outward and upward from each end of the runway and its dimensions are measured horizontally.

The inner edges of all approach surfaces are the same width and elevation as, and coincide with the primary surface and extend uniformly to a width of 2,500 feet at a distance of 10,000 feet and continues at the same rate of divergence to the perimeter of the conical surface.

C. Horizontal Surface. The horizontal surface is a horizontal plane 100 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 6,000 foot radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs.

D. Conical Surface. The conical surface extends upward and outward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

E. Transitional Surface. Transitional surface is a surface extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces until they intersect the horizontal surface or conical surface.

SECTION 4. Zones and Airport Zoning Map. In order to carry out the purposes of this ordinance, the following zones are established:

A. Zone A. All that land in the approach areas of the runway which is located within a horizontal distance of one (1) mile from each end of each runway.

B. Zone B. All that land in the approach areas of the runway which is located within a horizontal distance of two (2) miles from each end of the runway and which is not included in Zone A.

C. Zone C. All that land which is within a horizontal distance of two (2) miles from the airport boundary and is not included in Zones A and B.

D. Airport Zoning Map. The several zones above established are shown on the airport zoning map attached hereto and made a part hereof, which map, together with all notations, references, elevations, data, zone boundaries, and other information thereon, shall be and the same is hereby adopted as part of this ordinance.

SECTION 5. Height Limitations. Except as otherwise provided in the ordinance, and except as necessary and incidental to airport operations, no structure shall be constructed, altered, or maintained so as to project above any of the airport reference surfaces described in Section 3.

SECTION 6. Land Use Restrictions.

A. In General. Subject at all times to the height restrictions set forth in Section 5, no use shall be made of any land in any of the zones defined in Section 4 which created or causes interference with the operations of radio or electronic facilities on the airport or which radio or electronic communities between the airport and aircraft, makes it difficult for pilots to distinguish between airport and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

B. Zone A. Subject at all times to the height restrictions set forth in Section 5, and to the general restrictions contained in subsection 6A, land included in Zone A shall be used for the following purposes only:

(1) For agricultural purposes except that dwellings are prohibited;

(A) Each single commercial or industrial site shall contain no dwellings;

(B) The use shall not permit, require, cause or attract an assembly or concentration, public or private, at any one time, regardless of duration, of more than fifty (50) persons in any commercial building or of more than ten (10) persons in any one acre of such site.

The following uses are specifically prohibited in Zone A: Churches, hospitals, schools, theaters, stadia, and other places of public or semi-public assembly, hotels and motels, trailer courts, camp grounds, and multi-unit dwellings. Other compatible uses for Zone A include:

(1) auto parking (2) light recreation (no stadia).

C. Zone B. Subject at all time to the height restrictions set forth in Section 5, and to the general restrictions contained in subsection 6A, land included in Zone B shall be used for the following purposes only:

(1) for agricultural and residential purposes provided there shall not be more than one single family dwelling and accessory buildings (accessory farm buildings may include one single family tenant dwelling) per five (5) acre land tract;

(2) Any commercial or industrial use which meets with the minimum standard, set forth in subsection 6B (2).

D. Zone C. Subject at all times to the height restrictions set forth in Section 5 and to the general restrictions contained in subsection 6A, land included in Zone C may be used for any agricultural, residential, commercial or industrial purposes, subject to the limitation that dwellings are restricted to single family dwellings constructed on not less than one (1) acre lots.

SECTION 7. Non-Conforming Uses. Except that as provided in Section 9, the provisions of Sections 5 and 6 of this ordinance shall not be construed to require the removal, lowering or other change or alteration of any nonconforming use, or otherwise interfere with the continuance of any nonconforming use as of the effective date hereof. Nothing herein contained shall require any change in structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and which is diligently prosecuted and completed within two (2) years thereof.

SECTION 8. Variances; Any person desiring to erect or increase the height of any structure or permit the growth of any tree, or otherwise use his property not in accord with the regulations prescribed in this ordinance may apply to the board of adjustment hereinafter established for a variance from the regulation in question. Such variance shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary with the spirit of the regulations; provided, any variance may be allowed subject to any reasonable condition that the board of adjustment may deem necessary to effectuate the purposes of this ordinance.

SECTION 9. Permits.

(a) Future uses. Except as specifically provided in Paragraphs 1, 2 and 3 hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

(1) In the areas lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than 100 feet of vertical height above the ground, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed for such zone.

(2) In the areas lying within the limits of the approach zone but at a horizontal distance of not less than 4,200 feet from each end of the runways, no permit shall be required for any tree or structure less than 100 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zone.

(3) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 100 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limitations established by this ordinance except as set forth in Section 3.

B. Existing Use. Before any existing use or structure may be replaced, substantially altered or repaired or rebuilt within any zone established in Section 3, a permit must be secured authorizing such replacement, change or repair. No permit shall be issued which would allow the establishment or creation of an airport hazard or permit a non-conforming use of structure to be made higher, enlarged, intensified, or become a greater hazard to air navigation than it was on the effective date of this ordinance or than it was when the application for a permit is made.

C. Non-Conforming Uses Abandoned or Destroyed. Whenever the Airport Zoning Board determines that a non-conforming structure or tree has been abandoned, more than 80% torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

SECTION 10. Hazard, Marking and Lighting. Any permit issued, or variance granted, under Sections 8 and 9, may, if such action is deemed advisable to effectuate the purposes of this ordinance and reasonable in the circumstances, be so conditioned as to require the owner of the land or structure in question to permit the City of Ortonville, Minnesota, at its own expense to install, operate and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

SECTION 11. Airport Zoning Administration. The City Clerk of the City of Ortonville, is hereby charged with the duty of administering and enforcing the provisions of this ordinance. The duties of the Clerk shall include that of receiving applications for and the granting or denying of permits as provided in Section 9. The City Clerk shall not have or exercise any of the powers or duties herein delegated to the Board of Adjustment.

SECTION 12. Airport Board of Zoning Adjustments.

A. The planning commission as established by the provisions of City Ordinance No. 222 and Ordinances amendatory thereof the City of Ortonville shall be the Airport Zoning Adjustment Board and shall have and exercise the following powers:

(1) To hear and decide appeals from any order, requirements, decision or determination made by the Airport Commission in the enforcement of this ordinance.

(2) To hear and decide requests for variances.

B. The Board of Zoning Adjustment shall adopt such rules in addition to its existing rules as it deems advisable for its government and procedures so that the same shall be in harmony with the provisions of this ordinance and with the applicable state law. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The Board shall keep minutes of its proceedings, showing the vote of each member on each question or, if absent or failing to vote, indicating such fact, shall keep all records of the examination of witnesses and other official actions all of which shall be immediately filed in the office of the Board and shall be of public record.

C. The Board shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such acts in reversing, affirming, or modifying any matter which shall come before it on appeal.

D. A simple majority vote of the members of the Board of Adjustment shall be sufficient to decide any matter which should come before the Board.

SECTION 13. Appeals.

A. Any person aggrieved, or any taxpayer affected, by any decision of the Airport Commission made in the administration of this ordinance, shall have the right of appeal to the Board of Adjustment.

B. All appeals hereunder must be taken within fifteen (15) days from the date of the making and filing of any order or decision, by filing with the City Clerk of the City of Ortonville, a notice of appeal specifying the grounds thereof. The City Clerk shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed was taken.

C. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the City Council certifies to the Board of Adjustment, after the notice of appeal has been filed with it, in its opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the City Council and on due cause shown.

D. The Board of Adjustment shall fix a reasonable time for hearing appeals; shall give public notice and due notice to the parties in interest, and shall decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

E. The Board of Adjustment may, in conformity with the provisions of this ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determinations appealed from and may make such order, requirement, decision, or determination, as may be appropriate under the circumstances.

F. On appeal from a decision of the City Council, the Board shall make findings of fact and conclusions of law as provided in Paragraph D of Section 12.

SECTION 14. Judicial Review. Any person aggrieved, or any taxpayer affected by a decision of the Board of Adjustment, may appeal to the District Court as provided in Minn. Stat. Chapter 360.072.

SECTION 15. Conflicts. In the event of a conflict within this ordinance and any other applicable federal state or local regulations, the more stringent limitation or regulation shall govern and prevail.

SECTION 16. Penalties. Any person who violates any provision of this ordinance, or who violates any ruling in order made thereunder, shall be guilty of a misdemeanor as provided in Minnesota Statutes, Section 360.073 shall be punished by a fine of not more than \$100.00 or imprisonment for not more than 90 days or both such fine and imprisonment, and each day a violation continues to exist shall constitute a separate offense.


SECTION 17. Severability. If any of the provisions of this ordinance or its application is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provisions on application, and, to this end, the provisions of this ordinance are declared to be severable.

SECTION 18. Date Effective. This ordinance shall be effective thirty (30) days following the date of its publication and copies thereof shall be filed with the Commission of Aeronautics and the Register of Deeds, Big Stone County, Minnesota.

APPROVED:


MAYOR

ATTEST:


CITY CLERK

SECTION 13. Appeals.

A. Any person aggrieved, or any taxpayer affected, by any decision of the Airport Commission made in the administration of this ordinance, shall have the right of appeal to the Board of Adjustment.

B. All appeals hereunder must be taken within fifteen (15) days from the date of the making and filing of any order or decision, by filing with the City Clerk of the City of Ortonville, a notice of appeal specifying the grounds thereof. The City Clerk shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed was taken.

C. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the City Council certifies to the Board of Adjustment, after the notice of appeal has been filed with it, in its opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the City Council and on due cause shown.

D. The Board of Adjustment shall fix a reasonable time for hearing appeals; shall give public notice and due notice to the parties in interest, and shall decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

E. The Board of Adjustment may, in conformity with the provisions of this ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determinations appealed from and may make such order, requirement, decision, or determination, as may be appropriate under the circumstances.

F. On appeal from a decision of the City Council, the Board shall make findings of fact and conclusions of law as provided in Paragraph D of Section 12.

SECTION 14. Judicial Review. Any person aggrieved, or any taxpayer affected by a decision of the Board of Adjustment, may appeal to the District Court as provided in Minn. Stat. Chapter 360.072.

SECTION 15. Conflicts. In the event of a conflict within this ordinance and any other applicable federal state or local regulations, the more stringent limitation or regulation shall govern and prevail.

SECTION 16. Penalties. Any person who violates any provision of this ordinance, or who violates any ruling in order made thereunder, shall be guilty of a misdemeanor as provided in Minnesota Statutes, Section 360.073 shall be punished by a fine of not more than \$100.00 or imprisonment for not more than 90 days or both such fine and imprisonment, and each day a violation continues to exist shall constitute a separate offense.

SECTION 17. Severability. If any of the provisions of this ordinance or its application is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provisions on application, and, to this end, the provisions of this ordinance are declared to be severable.

SECTION 18. Date Effective. This ordinance shall be effective thirty (30) days following the date of its publication and copies thereof shall be filed with the Commission of Aeronautics and the Register of Deeds, Big Stone County, Minnesota.

APPROVED:

MAYOR


ATTEST:

CITY CLERK

1st Reading - April 2, 1973
2nd Reading - Oct. 1, 1973
Adoption - Oct. 1, 1973
Publication - Nov. 1, 1973

1st Reading - April 2, 1973
2nd Reading - Oct. 1, 1973
Adoption - Oct. 1, 1973
Publication - Nov. 1, 1973

I Donald E. Geier, City Clerk of the City of Ortonville, Minnesota, do hereby certify that the foregoing Ordinance is a true and correct copy of an Ordinance adopted at the regular meeting of the City Council of Ortonville, Minnesota on October 1, 1973.


City Clerk
Ortonville, Minnesota

ORDINANCE NO. 371

AN ORDINANCE ADOPTING A ZONING MAP AND REGULATING THE USE OF LAND AND THE HEIGHT OF STRUCTURE AND TREES WITHIN THE AIRPORT HAZARD AREA OF THE ORTONVILLE MUNICIPAL AIRPORT.

The Council of the City of Ortonville, Minnesota, does ordain:

SECTION 1. Authority. The City Council of the City of Ortonville, Minnesota finds that it is necessary, in order to promote public health, safety and general welfare and to protect the lives and property of the users of the Ortonville Municipal Airport and of the owners and occupants of land in its vicinity to adopt the following Airport Zoning Ordinance as authorized by Laws of Minnesota, 1953, Sections 360.061 through 360.074 inclusive,

SECTION 2. Definitions. As used in this ordinance and the accompanying map, unless the context otherwise requires, the following terms shall have the following meaning:

- A. "Airport" means the Ortonville Municipal Airport located in the West Half of Section 10 (10), Township One Hundred Twenty-one (121) North, Range Forty-six (46), West of the Fifth Principal Meridian, Big Stone County, Minnesota.
- B. "Airport Hazard" means any structure, tree or use of land which obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport.
- C. "Non-Conforming Use" means any structure, tree or use of land which does not conform to the regulations described in this ordinance as of its effective date.
- D. "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or similar representative thereof.
- E. "Structure" means any object constructed or installed by man including but not limited to, buildings, towers, smoke stacks, and overhead transmission lines.
- F. "Tree" means any object of natural growth.
- G. "Airport Zoning Map" means the Airport Zoning Map consisting of three (3) pages dated 10-23-73, together with such amendments thereto as may from time to time be made.
- H. "Airport Approach Zones" comprises all lands under the approach surfaces defined in Section 4 hereof.
- I. "Airport Transition Zones" comprises all lands under the transitional surfaces as defined in Section 4 hereof.
- J. "Airport Turning Zones" comprises all lands under the horizontal and conical surfaces as defined in Section 4 hereof.
- K. "Airport Elevation" means the highest point established on the usable airport landing area which elevation is established to be 1100.00 feet above sea level.
- L. "Dwelling" means any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

BIG STONE COUNTY

ZONING ORDINANCE

PROJECT P-117

Prepared by

Consulting Services Corporation
St. Paul Seattle

The preparation of the report was financed in part through an Urban Planning Grant from the Department of Housing and Urban Development, under the provisions of the National Housing Act, Section 701, 68 Stat. 640 (1954), as amended, U.S.C.A. 461 as administered by the State Planning Agency, State of Minnesota.

VINCENT TAFFE
ZONING ADMINISTRATOR
BIG STONE COUNTY COURTHOUSE
ORTONVILLE, MINNESOTA 56278
(612-839-3272)

Reprinted 4-26-73 as amended.

TABLE OF CONTENTS
BIG STONE COUNTY ZONING ORDINANCE

| CONTENTS | SECTION | PAGE |
|---------------------------------|---------|------|
| Title | | 1 |
| Purpose | | 1 |
| Article I | | 1 |
| Short Title | 1.1 | 2 |
| Article II | | 2 |
| Jurisdiction and Interpretation | | 2 |
| Jurisdiction | 2.1 | 2 |
| Interpretation | 2.2 | 2 |
| Article III | | 2 |
| Rules | 3.1 | 2 |
| Definitions | 3.2 | 3 |
| Article IV | | 6 |
| Compliance Required | 4.1 | 6 |
| Minimum Requirements | 4.2 | 6 |
| Approval of Plats | 4.3 | 6 |
| Structures Under Construction | 4.4 | 6 |
| Structures to be Moved | 4.5 | 7 |
| Excavating of Mineral Materials | 4.6 | 7 |
| Fences | 4.7 | 7 |
| Rubbish Dumping and Disposal | 4.8 | 7 |
| Sanitary Provisions | 4.9 | 7 |
| Non-Conforming Uses | 4.10 | 7 |
| Article V | | 8 |
| Zoning Districts | 5.1 | 8 |
| Additional Zoning Districts | 5.2 | 8 |
| Zoning Map | 5.3 | 8 |
| District Boundaries | 5.4 | 8 |
| Article VI | | 8 |
| A-1 Agricultural District | 6.1 | 8 |
| Permitted Uses | | 8 |
| Conditional Uses | | 9 |
| Minimum Lot Area | | 9 |
| Minimum Front Setback | | 9 |
| Minimum Side and Rear Setbacks | | 9 |
| Maximum Building Height | | 9 |
| A-2 Agricultural District | 6.2 | 9 |
| Permitted Uses | | 9 |
| Conditional Uses | | 9 |
| Minimum Lot Area | | 10 |
| Minimum Front Setback | | 10 |
| Minimum Side and Rear Setback | | 10 |
| Maximum Building Height | | 10 |

| | | |
|---------------------------------|------|----|
| R-1 Residential District | 6.3 | 10 |
| Permitted Uses | | 10 |
| Conditional Uses | | 10 |
| Minimum Lot Area | | 10 |
| Minimum Fron Setback | | 10 |
| Minimum Side and Rear Setback | | 10 |
| Maximum Building Height | | 10 |
| C-1 Commercial District | 6.4 | 10 |
| Permitted Uses | | 10 |
| Conditional Uses | | 11 |
| Minimum Lot Area | | 11 |
| Minimum Front Setback | | 11 |
| Minimum Side and Rear Setback | | 11 |
| Maximum Building Height | | 11 |
| Minimum Parking Spaces Required | | 11 |
| I-1 Industrial District | 6.5 | 11 |
| Permitted Uses | | 11 |
| Conditional Uses | | 11 |
| Minimum Lot Area | | 11 |
| Minimum Front Setback | | 11 |
| Minimum Side and Rear Setback | | 11 |
| Maximum Building Height | | 11 |
| Minimum Parking Spaces Required | | 11 |
| W-D Waterfront District | 6.6 | 12 |
| Permitted Uses | | 12 |
| Conditional Uses | | 12 |
| Minimum Lot Area | | 12 |
| Minimum Front Setback | | 12 |
| Minimum Side and Rear Setback | | 12 |
| Maximum Building Height | | 12 |
| Minimum Parking Spaces Required | | 12 |
| Maximum Lot Coverage | | 12 |
| Article VII | | 13 |
| Conditional Uses | 7.1 | 13 |
| Procedures for Application | 7.2 | 13 |
| Reports | 7.3 | 13 |
| Conditional Use Review Criteria | 7.4 | 13 |
| Article VIII | | 15 |
| Administrative Official | 8.1 | 15 |
| Building Permits | 8.2 | 15 |
| Article IX | | 16 |
| Creation of Board of Adjustment | 1 | 16 |
| Membership | 2 | 16 |
| Meetings and Officers | 3 | 16 |
| Powers and Duties | 4 | 17 |
| Variances | 5 | 18 |
| Variance Procedure | 6 | 19 |
| Article X | | 19 |
| Amendment | 10.1 | 19 |

| | | |
|--|------|--------------------------|
| Initiation | 10.2 | 19 |
| Planning Commission Review | 10.3 | 19 |
| Application | 10.4 | 20 |
| Notice and Hearing | 10.5 | 20 |
| Petitions Previously Denied | 10.7 | 20 |
| Article XI | | 21 |
| Fees | 11.1 | 21 |
| Article XII | | 21 |
| Violations | 12.1 | 21 |
| Article XIII | | 21 |
| Validity | | 21 |
| Variance Procedure Graph | | 20 <i>a</i> |
| Conditional Use Permit Procedure Graph | | 20 <i>14a</i> |
| Amendment (Rezone) Procedure Graph | | 20 <i>b</i> |

TITLE

An ordinance regulating and restricting the height and size of buildings; the size of yards, courts and other open spaces, the density of population, the location and use of buildings and land for trade, commerce, industry, residence and other purposes; creating districts for said purposes and establishing the boundaries thereof; providing for changes in regulations, restrictions and boundaries of such districts; defining certain terms used herein; providing for enforcement and administration and imposing penalties for the violation of this ordinance.

PURPOSE

Pursuant to the authority conferred by the State of Minnesota in Chapter 394, Minnesota Statutes of 1967, and for the purpose of promoting and protecting the public health, safety and general welfare of the inhabitants of the County of Big Stone by protecting and conserving the character and social and economic stability of the agricultural, residential, commercial, industrial and other use areas; by securing the most appropriate use of the land; preventing the overcrowding of the land; and undue congestion of population; providing adequate light, air and reasonable access; and facilitating adequate and economical provision of transportation, water supply and sewage disposal, schools, recreation and other public requirements; now therefore:

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BIG STONE COUNTY, MINNESOTA.

ARTICLE I
SHORT TITLE

Section 1.1 This Ordinance shall be known and cited as the "Big Stone County Zoning Ordinance", Big Stone County, Minnesota.

ARTICLE II
JURISDICTION AND INTERPRETATION

Section 2.1 Jurisdiction. This Ordinance controls the use of the land and the construction and moving of buildings and structure in the unincorporated area of Big Stone County. After the effective date of this Ordinance the use of all land and every building or structure hereafter constructed or moved shall be in conformity with the provisions of this Ordinance. Existing buildings or structures and any existing use of land not in conformity shall be regarded as non-conforming uses.

Section 2.2 Interpretation. In interpreting the provisions of this Ordinance, they shall be considered to be the minimum requirements for the promotion of the public health, safety, morals, convenience and general welfare. Any statutes, regulation or permanent township zoning ordinance that is in effect or which shall be enacted during the period covered by this Ordinance which is more restrictive shall apply. Where the provisions of this Ordinance impose greater restrictions than those of any statutes, regulation or ordinance, the provisions of this Ordinance shall apply.

ARTICLE III
RULES AND DEFINITIONS

Section 3.1 Rules. For the purpose of this Ordinance, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular.

- (1) The word "building" shall include "structures" of every kind, regardless of similarity to buildings.
- (2) The word "person" shall include a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- (3) The word "shall" is mandatory and not discretionary.

(4) The word "may" is permissive.

(5) The word "lot" shall include the word "plot", "piece" and "parcel".

Section 3.2 Definitions. For the purpose of this Ordinance, certain words and terms are herein defined as follows:

"Accessory Building." A building, structure or use on the same lot with and of a nature customarily incidental and subordinate to the principal building or use.

"Agricultural Structures." Structures customary and incidental to farming and the raising of animals, including barns and other animal shelters, corrals and fences, silos and storage sheds for machinery and crops.

"Building." Any structure, having a roof, and used or built for shelter or enclosure of any person, animal, chattel of property of any kind.

"Building Height." The vertical distance measured from the ground level adjoining the building to the highest point of the roof surface.

"Building Permit." A written approval issued pursuant to the terms of Section 3.2 authorizing the applicant to erect, renovate or move a building according to the terms of the application.

"Commercial Feed Lot." Commercial feed lot shall mean the place of confined feeding of more than fifty (50) head of livestock or other animals for food, fur, pleasure or resale purposes in yards, lots, pens, buildings or other areas not normally used for pasture or crops and in which substantial amounts of manure or related wastes may originate by reason of such feeding of animals.

"District." Any section in the unincorporated area of the county for which the regulations governing the use of building and land or the height and area of buildings are uniform.

"Dwelling." A building or portion thereof which is occupied wholly as a home, residence or sleeping place of one (1) or more human beings.

"Farm." A farm shall be a parcel of land which is worked as a single contiguous unit of not less than ten (10) acres in extent.

"Farmstead." The area within which the farm dwelling, barn, stables, machinery sheds and usual and customary accessory agricultural structures are located.

"Home Occupation." Any occupation or profession carried on by a member of a family, residing on the premises, in connection with which there is used no sign other than one (1) non-illuminated nameplate measuring not more than one (1) by one and one-half ($1\frac{1}{2}$) feet in area attached to the building entrance provided that:

- (1) No commodity is sold upon the premises.
- (2) No person is regularly employed for commercial purposes other than a member of the immediate family residing on the same premises.
- (3) No more than twenty-five percent (25%) of the total floor area is to be used for said home occupation.

"Junkyard." An area used for storage, sorting or processing of scrap metal, automobile bodies, farm machinery or other scrap metals.

"Lot." A lot is a piece or parcel of land occupied or to be occupied by a building, structure or use, or by other activity permitted thereon and including the open spaces required under this Ordinance. A lot need not be a lot of existing record.

"Lot, Corner." A corner lot is a lot of which at least two (2) adjacent sides abutt for their full length upon a street.

"Lot of Record." A lot which is part of a subdivision, the map of which has been recorded in the Office of the Register of Deeds of Big Stone County, or a lot described by metes and bounds, the deed to which has been recorded in the Office of the Register of Deeds of Big Stone County.

"Mobile Home." Any mobile home, camper, house trailer or similar mobile unit, which may be used as a portable dwelling.

"Mobile Home Park." A lot or tract of land upon which two (2) or more occupied mobile homes are harbored either with or without charge and including any building or enclosure intended for use as a part of the equipment of such park.

"Motel." A motel is a business comprising a series of attached or semi-detached or detached rental units for the overnight accommodation of transient guests.

"Non-Conforming Use." A land use or building or structure or portion thereof lawfully existing at the effective date of this Ordinance, or at the time of any amendment thereto, which does not conform to the regulations of the zone in which it is located.

"Open Fences." Wire or rail or other fences so constructed that they do not hold or restrict snow.

"Parking Space." An area of not less than two hundred (200) square feet, exclusive of drives or aisles giving access thereto, accessible from streets or alleys or private drives or aisles leading to streets or alleys, and to be usable for the storage or parking of motor vehicles.

"Planning Commission." The Planning Commission shall be the Planning Commission established and appointed by the County Board of Big Stone County.

"Planning and Zoning Administrator." The Planning and Zoning Administrator shall be the Office of the Planning and Zoning Administrator of Big Stone County.

"Principal Building." A building or structure in which is conducted the main or principal use of the lot on which said building or structure is situated.

"Setback." An open space between a building and the adjoining lot lines, unoccupied and unobstructed from the ground upward. Setback measurements shall be the minimum horizontal distance between a lot line and the nearest line of a building.

"Street." Any thoroughfare other than a public alley, dedicated to the use of the public and open to public travel, whether designated as a road, avenue, highway, boulevard, drive, lane, circle, place, court or any other similar designation, or a private street open to restricted travel, at least thirty (30) feet in width.

"Structure." Anything constructed or erected, the use of which requires location on the ground.

"Use." The purpose for which land or buildings thereon are designed, arranged or intended to be occupied or used, or for which they are occupied or maintained.

"Zoning Map." The areas comprising these zoning districts and boundaries of said districts as shown upon the map attached hereto and made a part of this Ordinance, being designated as the County of Big Stone Official Zoning Map, with all proper notations, references and other information shown thereon.

ARTICLE IV GENERAL REGULATIONS

The following general regulations contained in this Article shall apply equally to all Districts.

Section 4.1 Compliance Required. Except as provided in Article VII, land and structures in each District shall be used only for the purposes specifically permitted by this Ordinance.

Section 4.2 Minimum Requirements. The following shall be considered as minimum requirements in all Districts.

- (1) Front Setback. No structure shall be located less than one hundred fifty (150) feet from the centerline or forty-five (45) feet from the right-of-way line, whichever is greater, of the road or roads they abutt.
- (2) Side and Rear Setback. No structure shall be located less than twenty (20) feet from any side or rear property line they adjoin.
- (3) Building Height. The maximum building height shall not exceed thirty-five (35) feet, provided that churches and storage silos, barns and other usual and customary agricultural structures may exceed this height.

Section 4.3 Approval of Plats. No proposed plat of a new subdivision shall hereafter be approved unless the lots within such plat shall be equal to or exceed the minimum lot size required for the District in which the property is located.

Section 4.4 Structures Under Construction. Any structure for which a building permit has been issued and the construction has started prior to the effective date of this Ordinance may be completed and used in accordance with the plans and application on which said buildings permit was granted.

- Section 4.5 Structures to be Moved. No structures shall be moved to a new location within the County until a building permit has been secured as specified in Article VIII. Any such structure shall conform to all provisions of this Ordinance as a new structure.
- Section 4.6 Excavating of Mineral Material. The use of land for the commercial excavation of mineral material or removal of top soil, sand and gravel is not permitted in any District except with the granting of a conditional use permit as specified in Article VII. Permits shall be granted for one (1) year and shall be subject to review and rehearing at that time.
- Section 4.7 Fences. No fence, wall, structure, planting or other obstruction shall be permitted over three (3) feet in height within twenty-five (25) feet of any road intersection in order to insure visibility across such road intersection. Open fences constructed so as not to obstruct snow shall be permitted on property lines.
- Section 4.8 Rubbish Dumping and Disposal. The use of land for the dumping or disposal of scrap iron, junk, garbage, rubbish or other refuse, or of ashes, slag or other industrial wastes or by-products is not permitted in any District, except under a conditional use permit as specified in Article VII.
- Section 4.9 Sanitary Provisions. All sewage facilities shall be connected to sewers when available; where sewers are not constructed or in operation, all sewage facilities shall be connected to septic tanks and disposal fields approved by the Zoning Administrator.
- Section 4.10 Non-Conforming Uses. The lawful non-conforming use of buildings, structures or land existing at the time this Ordinance becomes effective may be continued provided that no non-conforming use shall:
- (1) Be changed to another non-conforming use,
 - (2) Be extended to occupy a greater portion of the lot, building or structure than it occupied on the effective date of this Ordinance,
 - (3) Be re-established if discontinued for a period of one (1) year,
 - (4) Be rebuilt after damage in excess of sixty percent (60%) of its than appraised value.

ARTICLE V
ZONING DISTRICTS

- Section 5.1 Zoning Districts. For the purpose of this Ordinance, the unincorporated area of Big Stone County is divided into the zoning districts described in Article VI.
- Section 5.2 Additional Zoning Districts. Additional zoning districts may be added or zoning districts may be deleted or modified in the manner prescribed in Article X of this Ordinance.
- Section 5.3 Zoning Map. The areas comprising these zoning districts and the boundaries of said districts are shown upon the zoning map made a part of this Ordinance, being designated as the County of Big Stone Official Zoning Map, with all proper notations, references and other information shown thereon.
- (1) The Official Zoning Map shall be signed by the Chairman of the County Board, attested to by the County Auditor and bear the seal of the County under the words "This is to certify that this map is the Official Zoning Map of the County of Big Stone, Minnesota". The Official Zoning Map shall be kept on file in the Office of the County Auditor.
 - (2) Changes made in district boundaries by amendments to this Ordinance shall be recorded by the Zoning Administrator on the Official Zoning Map within thirty (30) days after official publication of the amendment.
- Section 5.4 District Boundaries. The boundaries separating districts are, unless otherwise specified, the centerlines of highways, roads, streets, alleys or railroad rights-of-way, or such lines extended, or lines parallel or perpendicular thereto, or section, half section, quarter section, quarter-quarter section, or other fractional section lines of United States public land surveys as provided by law.

ARTICLE VI
USE DISTRICT REGULATIONS

- Section 6.1 A-1 Agricultural District.
- (1) Permitted Uses

Agriculture including farm dwellings and agricultural buildings.

Public parks, wildlife management areas and similar public outdoor recreation areas*
Golf courses, resorts, vacation farms, group camps, riding stables and similar private outdoor recreation areas.

Churches, cemeteries.

Home occupations.

Accessory buildings and uses customarily and usually incidental to the uses listed above.

(2) Conditional Uses.

Commercial feed lots.

Rubbish dumps, landfills, junkyards.

Extraction of mineral materials including top soil, sand and gravel.

Billboards, outdoor advertising signs.

Mobile home parks.

Airports.

(3) Minimum Lot Area. Forty (40) acres.

(4) Minimum Front Setback. As specified in Section 4.2 (1)

(5) Minimum Side and Rear Setbacks. As specified in Section 4.2 (2).

(6) Maximum Building Height. As specified in Section 4.2 (3).

Section 6.2 A-2 Agricultural District.

(1) Permitted Uses.

Uses specified in Section 6.1 (1).

One and two family dwellings.

Temporary stands for the sale of farm products.

(2) Conditional Uses.

Commercial feed lots.

Rubbish dumps, landfills, junkyards.

Extraction of mineral material including top soil, sand and gravel.

Billboards, outdoor advertising signs.

Mobile home parks.

Golf driving ranges, drive-in movies, trap shooting ranges and related commercial outdoor recreation areas.

Greenhouses, plant nurseries.
Airports.

- (3) Minimum Lot Area. Ten (10) acres.
3. A. Two (2) acres for 1 and 2 family dwellings.
- (4) Minimum Front Setback. As specified in Section 4.2 (1).
- (5) Minimum Side and Rear Setback. As specified in Section 4.2 (2).
- (6) Maximum Building Height. As specified in Section 4.2 (3).

Section 6.3 R-1 Residentail District.

- (1) Permitted Uses.
One and two family dwellings.
Churches, cemeteries.
Truck gardening, nurseries.
Home occupations.
Accessory buildings and uses customarily and usually incidental to the uses listed above.
- (2) Conditional Uses. None.
- (3) Minimum Lot Area. One (1) acre.
- (4) Minimum Front Setback. As specified in Section 4.2 (1).
- (5) Minimum Side and Rear Setback. As specified in Section 4.2 (2).
- (6) Maximum Building Height. As specified in Section 4.2 (3).

Section 6.4 C-1 Commercial District.

- (1) Permitted Uses.
Uses specified in Section 6.3 (1) on lots not less than one (1) acre.
Eating and drinking places.
Truck stops, gas stations, repair garages.
Motels and motor courts.
Animal clinics.
Billboards, outdoor advertising signs.

- (2) Conditional Uses.
Other retail or service uses.
- (3) Minimum Lot Area. Five (5) acres.
- (4) Minimum Front Setback. As specified in Section 4.2 (1)
- (5) Minimum Side and Rear Setback. As specified in Section 4.2 (2).
- (6) Maximum Building Height. As specified in Section 4.2 (3).
- (7) Minimum Parking Spaces Required.
One (1) for each dwelling unit.
Two (2) for each one (1) employee.

Section 6.5 I-1 Industrial District.

- (1) Permitted Uses.
Uses specified in Section 6.4 (1) subject to the requirements specified for the C-1 Commercial District. Any other use not prohibited by law except those uses listed below which shall require a conditional use permit.
- (2) Conditional Uses.
Meat packing plants and slaughter houses.
Commercial feed lots.
Rubbish dumps, landfills, junkyards.
Extraction of mineral materials including top soil, sand and gravel.
- (3) Minimum Lot Area. Ten (10) acres.
- (4) Minimum Front Setback. As specified in Section 4.2 (1)
- (5) Minimum Side and Rear Setback. As specified in Section 4.2 (3).
- (6) Maximum Building Height. As specified in Section 4.2 (3)
- (7) Minimum Parking Spaces Required. One (1) for each employee.

Section 6.6 W-D Waterfront District.

(1) Permitted Uses.

One and Two family dwellings.
Publicly owned outdoor recreation areas.
Home occupations.
Accessory buildings and uses customarily and usually incidental to the uses listed above.

(2) Conditional Uses.

Commerical or private outdoor recreation areas and use.
Waterfront cabins and cottages intended for seasonal use or rental.
Commercial waterfront resort, including eating and drinking facilities.
Boat livery, including boat docks, sails, rental, construction and repair.

(3) Minimum Lot Area. One-half ($\frac{1}{2}$) acre.

(4) Minimum Front Setback. As specified in Section 4.2 (1) provided that where a lot has frontage on a lakeshore a minimum setback of seventy-five (75) feet to the meandered line or the mean high water line for such lake shall also be provided; boat houses and shelters, docks and piers shall be permitted within said setback.

(5) Minimum Side and Rear Setback. As specified in Section 4.2 (2).

(6) Maximum Building Height. As specified in Section 4.2 (3).

(7) Minimum Parking Spaces Required.

One (1) for each dwelling unit.
Two (2) for each one (1) employee.

(8) Maximum Lot Coverage. In the Waterfront District, not more than twenty-five per cent (25%) of the lot area shall be occupied by buildings.

NOTE: Section 6.6. W-D Waterfront District.
All provisions of the above Section 6.6 are superceded by the Big Stone County Shoreland Management and Flood Plain Control Ordinance adopted December 7, 1972.

ARTICLE VII
CONDITIONAL USES

Recognizing that certain uses may or may not be compatible with the principal permitted uses in the various zoning districts depending on the particular case, the authority to permit such uses is vested in the County Board according to the following procedures.

Section 7.1. Conditional Uses. Conditional use permits may be issued for any and only the uses or purposes for which such permit are required or permitted by provisions of this Ordinance.

Section 7.2 Procedure for Conditional Use Permit Application. An application for a conditional use permit shall be filed with the Zoning Administrator on a form prescribed by the County Board. The application shall be forwarded to the County Planning Commission and shall be accompanied by such further information as prescribed by the County Planning Commission.

- (1) The County Planning Commission shall hold at least one (1) public hearing in a location to be prescribed by the Planning Commission at least ten (10) days in advance of each hearing.
- (2) Notice of the time and place of such hearing shall be published in the official paper of the County.
- (3) Notice shall be given to the township in which the conditional use is proposed to be located and to any municipality within one and one-half ($1\frac{1}{2}$) miles.
- (4) All property owners within three hundred (300) feet shall be notified by U.S. mail as to the time and place of the public hearing.

Section 7.3 Report of Planning Commission to County Board. The County Planning Commission shall report to the County Board its findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest.

Section 7.4 Conditional Use Review Criteria. No conditional use shall be recommended by the County Planning Commission unless said Commission shall find:

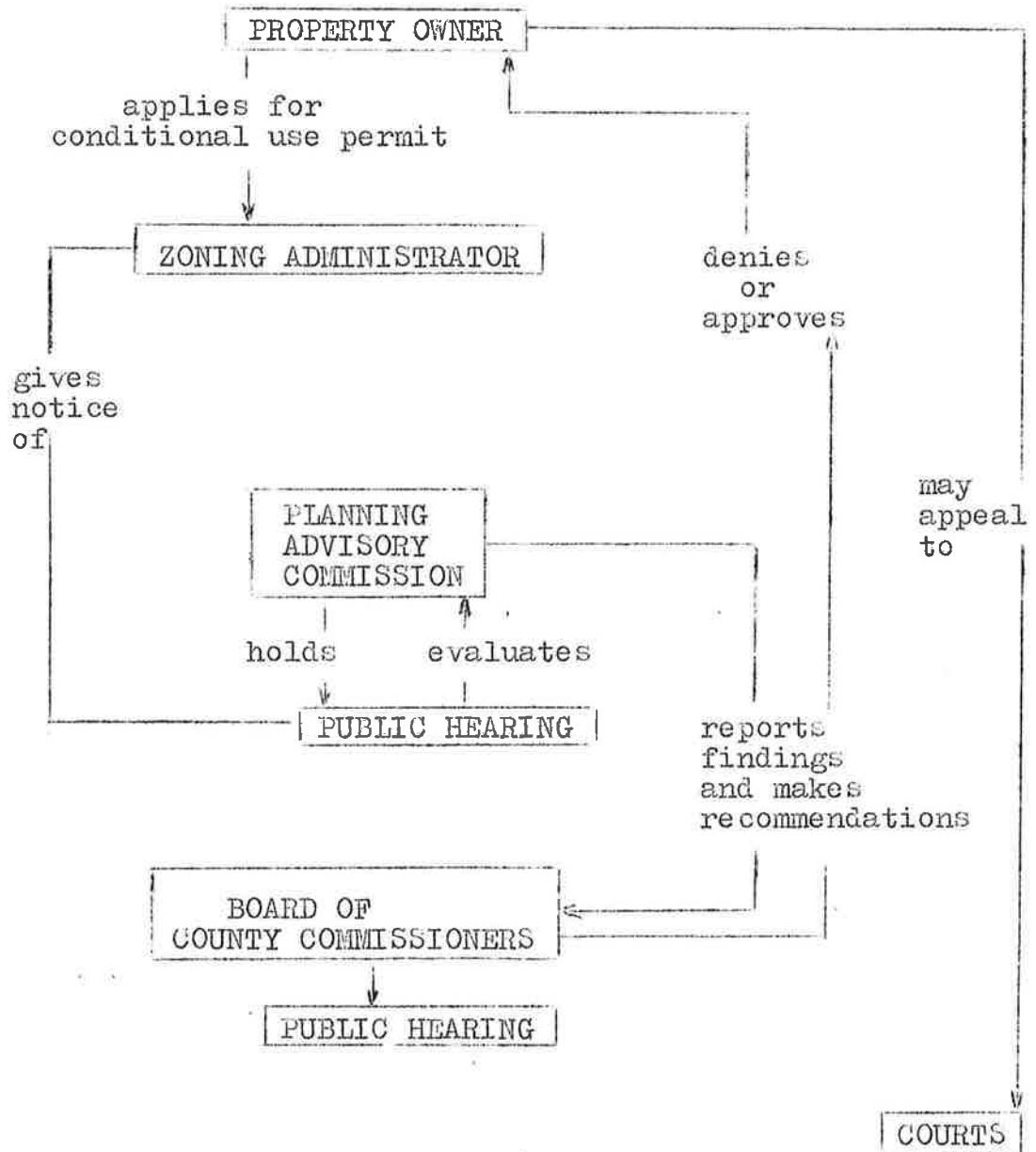
- (1) That the use is one of the conditional uses specifically listed for the district in which it is to be located.
- (2) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminished and impair property values within the immediate vicinity.
- (3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
- (4) That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
- (5) That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
- (6) That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise or vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such manner that no disturbance to neighboring properties will result.

Section 7.5 Upon receipt of the report of the County Planning Commission, the County Board may hold whatever public hearings it deems advisable and shall make a decision upon the proposal to grant or deny a conditional use permit.

Section 7.6 The County Board may impose such conditions and safeguards upon the premises benefited by a conditional use as may be necessary to prevent injurious effects therefrom upon other property in the neighborhood. Violation of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this Ordinance and punishable under Article XII.

Section 7.7 No conditional use permitting the erection or alteration of a building shall be valid for a period longer than one (1) year unless the building is erected or altered within that period.

CONDITIONAL USE
PERMIT PROCEDURE



ARTICLE VIII
ADMINISTRATION AND ENFORCEMENT

Section 8.1 Administrative Official. Administration and enforcement of this Ordinance shall be the responsibility of the Planning and Zoning Administrator. The administrator shall perform the following duties.

- (1) Administer the Ordinance.
- (2) Enforce the terms of this Ordinance through proper legal channels.
- (3) Issue building permits.
- (4) Receive and forward to the Planning Commission and Board of County Commissioners all applications for conditional use permits and applications to amend this Ordinance.
- (5) Maintain permanent and current records of the zoning ordinance including all maps, amendments, conditional uses and non-conforming uses.
- (6) Provide clerical and technical assistance to the Board of Adjustment.
- (7) Provide information to the public relative to the content and administration of this Ordinance.

Section 8.2 Building Permits. No person shall hereafter erect, alter or move any building or structure, the cost of which exceeds five hundred dollars (\$500) without first obtaining a building permit from the Administrator.

- (1) Application for a building permit shall be made to the Administrator on duplicate forms to be provided by the County.
- (2) Each application shall indicate the use to be made of the structure, location and dimensions of the property and the nature of the proposed construction, alteration or repair.
- (3) Upon determining that the proposed construction, alteration or repair conforms to all provisions of this Ordinance and other applicable codes and ordinances, the Administrator shall issue the building permit.
- (4) No permit shall be required for interior alterations or remodeling, provided that the building use is not changed. A change in outside dimensions including height requires a permit.

- (4) One (1) copy of the building permit and application shall be returned to the applicant and the other shall be retained permanently as part of the records of the Administrator.
- (5) If the work described in the building permit application is not substantially completed within two (2) years, said permit shall expire and further work shall not proceed until a new permit is obtained.
- (6) A fee shall be paid to the Administrator before any building permit shall be issued which shall be transferred to the County Auditor for deposit to the account of The County General Fund.
- (7) The amount of the fee shall be determined by the County Board of Commissioners.

ARTICLE IX
BOARD OF ADJUSTMENT

A Board of Adjustment consisting of three (3) members is hereby created. The Board shall have the powers and duties enumerated in Minnesota Statutes 1969, Chapter 394.27, which is hereby adopted by reference.

Section 1. Creation of Board of Adjustment. According to Section 7, Chapter 394.27, Minnesota Statutes of 1967, there is hereby created a Board of Adjustment.

Section 2. Membership. The Board of Adjustment shall consist of three ~~(3)~~ members whose appointment, term of office, or removal from the Board shall be as provided in the resolution creating the Board of Adjustment; provided that no elected officer of the County nor any employee of the Board of Commissioners shall serve as a member of the Board of Adjustment, and that one (1) member shall be a member of the Planning Advisory Commission. The members of such Board of Adjustment shall serve without compensation but may be paid their necessary expenses in attending meetings of the Board and in the conduct of the business of the Board.

Section 3. Meetings and Officers. Meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board in its rules of procedure may specify.

- (1) The Board of Adjustment shall elect a chairman and vice-chairman from its members and shall appoint a secretary who need not be a member of the Board.

- (2) The Board of Adjustment shall adopt rules for the transaction of its business and shall keep a public record of its transactions, findings and determination
- (3) Staff services for the Board of Adjustment shall be furnished by the County.

Section 4. Powers and Duties. The Board of Adjustment shall act upon all questions as they may arise in the administration of any ordinance or official control, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with enforcing any ordinance adopted pursuant to the provision of Sections 1 to 17, Chapter 394.37, Minnesota Statutes of 1967.

- (1) Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of a town, municipality, county or state.
- (2) Such appeal shall be taken in such time as shall be prescribed by the Board of Adjustment by general rule, by filing with the Board of Adjustment a notice of appeal specifying the grounds thereon.
- (3) The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and the officer from whom the appeal is taken and decide the same within a reasonable time.
- (4) The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement decision or determination as in its opinion ought to be made on the premises and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The reason for the Board's decision shall be stated.
- (5) The decision of such Board shall not be final and any person having an interest affected by such ordinance shall have the right to appeal to the District Court in the county in which the land is located on questions of law and fact.

Section 5. Variances. The Board of Adjustment shall have power to vary or adapt the strict application of any of the requirements of this Ordinance in the case of exceptionally irregular narrow or shallow lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other uses except as specifically described.

- (1) No variance in the provisions or requirements of this Ordinance shall be authorized by the Board of Adjustment unless it finds evidence that all the following facts and conditions exist:
 - (a) That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district.
 - (b) That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the same vicinity. The possibility of increased financial return shall not in itself be deemed sufficient to warrant a variance.
 - (c) That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Ordinance or the public interest.
 - (d) That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.
- (2) In granting a variance, the Board of Adjustment may impose conditions to insure compliance and to protect adjacent properties.
- (3) The Board of Adjustment may not permit as a variance any use that is not permitted under this Ordinance for the property in the district where the affected person's land is located.

Section 6. Variance Procedure. Within sixty (60) days after receipt of filing of a request for a variance or an appeal from an administrative order of determination, the Board of Adjustment shall set a hearing date for a hearing thereon, and shall hear such persons as wish to be heard, either in person or by agent or attorney.

- (1) Notice of such hearing shall be published in a newspaper of general circulation at least ten (10) days prior to date of hearing, in addition notice of such hearing shall be mailed not less than ten (10) days before the date of hearing, to the person or persons who filed the appeal or request and in the case of a request for a variance to each owner of property situated wholly or partly within three hundred (300) feet of the property to which the variance relates, insofar as the names and addresses of such owners can be determined by the County Auditor from records available to the public.
- (2) Within a reasonable time after the hearing, the Board of Adjustment shall make its order deciding the matter and serve a copy of such order upon the appellant or the petitioner by mail.

ARTICLE X
AMENDMENT

Section 10.1 Amendment. Amendments, including changes in the district boundaries or in the text of this Ordinance, may be made wherever the public necessity and general welfare require by following the procedure specified in this Article.

Section 10.2 Initiation. Amendments shall be initiated in the following manner.

- (1) A petition of the owner or owners of the actual property.
- (2) A recommendation of the County Planning Commission.
- (3) Action of the Board of County Commissioners.

Section 10.3 Planning Commission Review. Any amendment initiated by the planning commission shall be referred to it for study and report and shall not be acted upon by the County Board until it has received the recommendation of the Planning Commission or until sixty (60) days have elapsed from the time of referral.

Section 10.4 Application. An application for amendment initiated by petition of the owner or owners of the actual property shall be filed with the Administrator. The application shall be accompanied by a map showing lands proposed to be changed and all lands within three hundred (300) feet of the property, together with the names and addresses of the owners of said land.

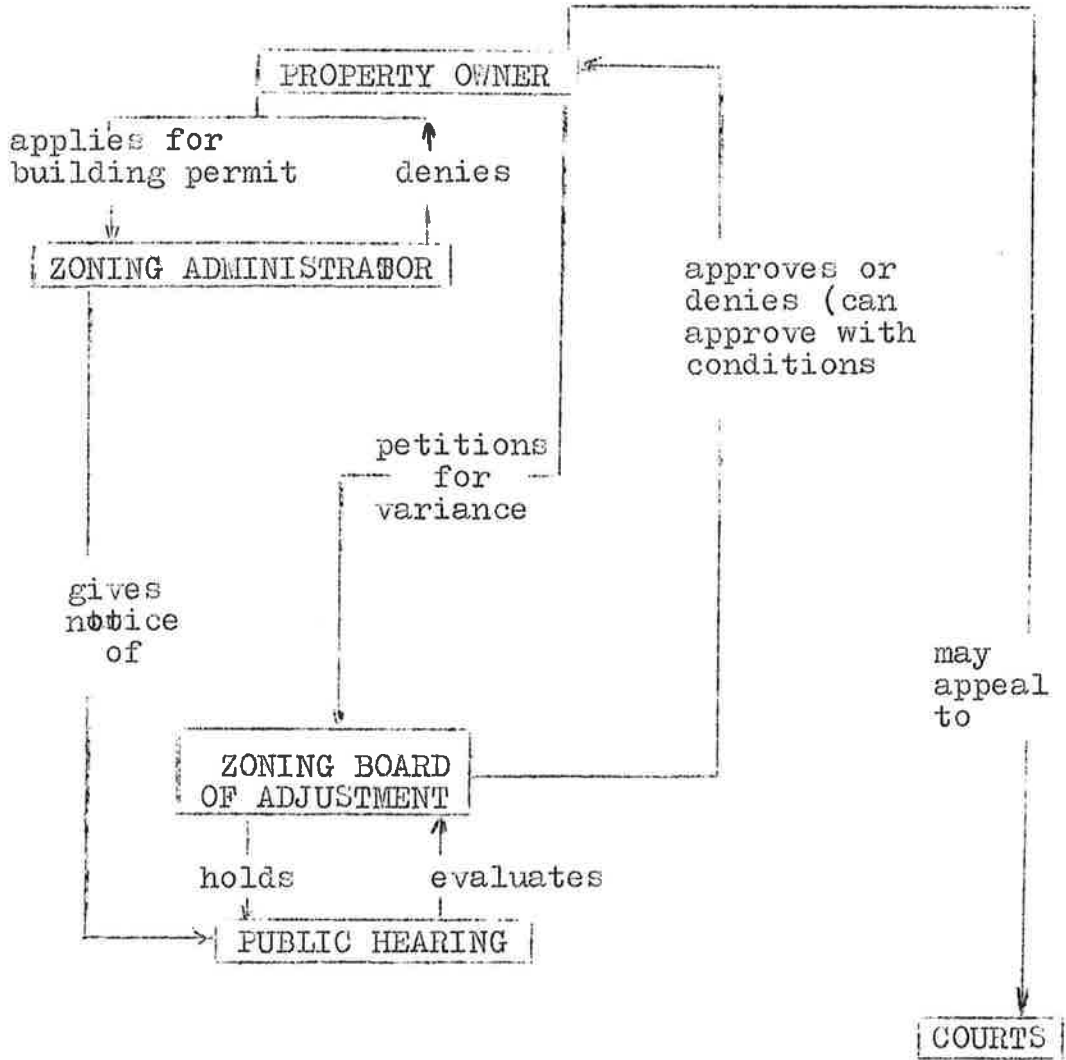
Section 10.5 Notice and Hearing. Before it makes its recommendations to the Board of County Commissioners, the Planning Commission shall hold at least one (1) public hearing on the proposed amendment in a location to be prescribed by the Planning Commission at least ten (10) days in advance of such hearing. The procedure for notice and hearing shall be as specified in Section 7.2.

Section 10.6 Following the public hearing, the County Planning Commission shall make a report of its findings and recommendations on the proposed amendment and shall file a copy with the Board of County Commissioners and the Zoning Administrator within sixty (60) days after the hearing.

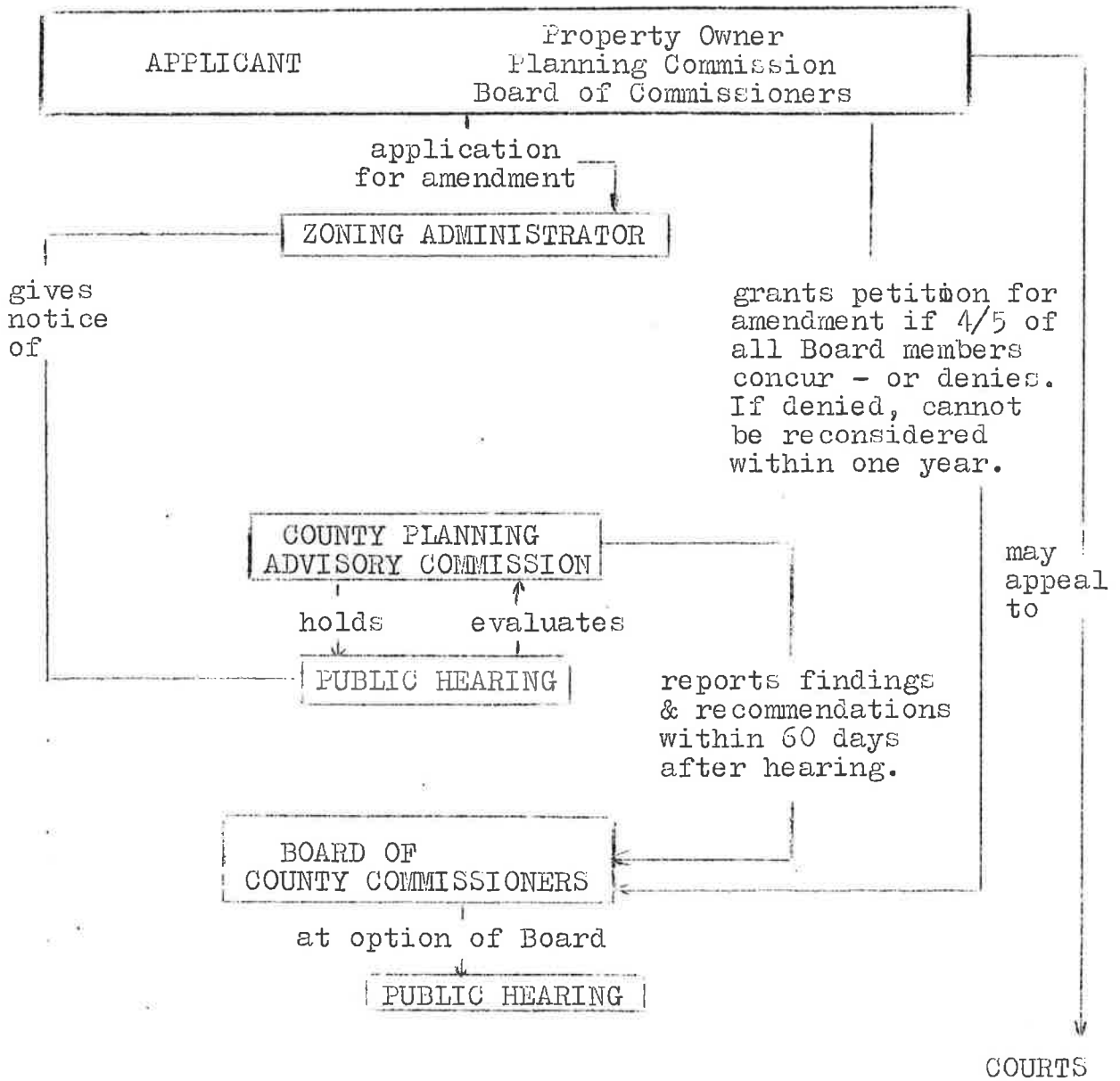
- (1) If no report or recommendation is transmitted by the County Planning Commission within sixty (60) days after the hearing, the Board of County Commissioners may take action without awaiting such recommendation.
- (2) Upon the filing of such report or recommendation, the Board of County Commissioners may hold such public hearings upon the amendment as it deems advisable.
- (3) After the conclusion of the hearings, if any, the Board of County Commissioners may adopt the amendment or any part thereof in such form as it deems advisable.
- (4) The amendmant shall be effective only if four-fifths (4/5) of all the members of the Board concur in its passage.

Section 10.7 Petitions Previously Denied. A period of not less than one (1) year is required between presentation of petitions for a change or amèndment applying to a specific piece of property, where prior petition was denied.

VARIANCE PROCEDURE



AMENDMENT (REZONE)
PROCEDURE



ARTICLE XI
FEES

Section 11.1 All petitions for amendments to this Ordinance, requests for variances, notices of appeals from an administrative order or applications for conditional use permits shall be accompanied by a fee to be established by the County Board.

ARTICLE XII
VIOLATIONS

Section 12.1 Violations. Any person, firm or corporation who violates any of the provisions or who fails to comply with any of the provisions of this Ordinance, shall be guilty of a misdemeanor.

- (1) Each day that a violation continues shall constitute a separate offense.
- (2) In the event of a violation or a threatened violation of this Ordinance, the Zoning Administrator or the Board of County Commissioners or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.
- (3) Any taxpayer or taxpayers of the County may institute mandamus proceedings in District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.

ARTICLE XIII
VALIDITY

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

ARTICLE XIV
EFFECTIVE DATE

This Ordinance shall become effective and be in force from and after its passage, approval and publication as provided by law.

Passed and approved this 4th day of August, 1971.



Board of County Commissioners

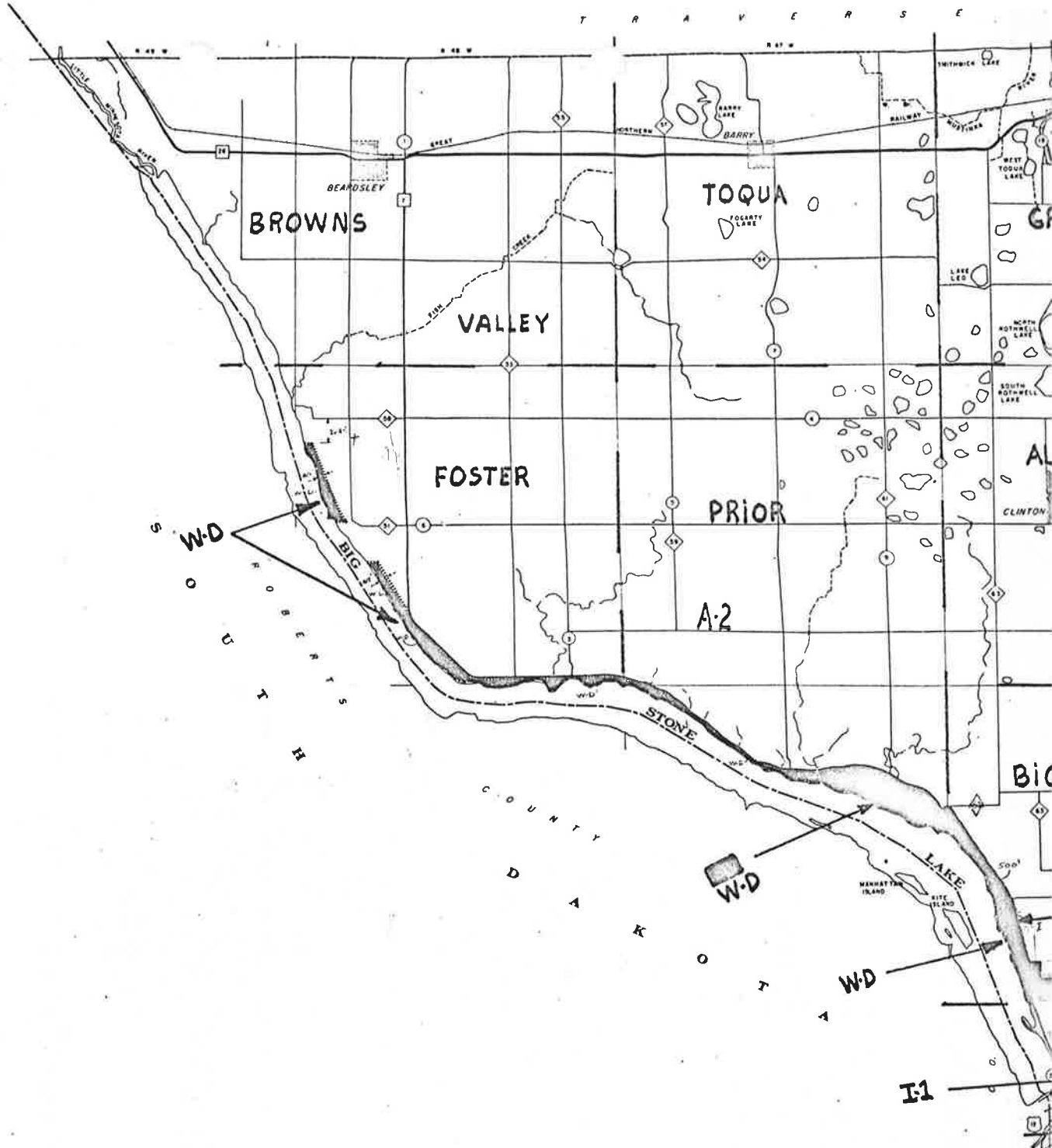
Attest:



County Auditor

(Published December 30, 1971)

, 19 .



BIG STONE COUNTY

MINNESOTA

1968

CONSULTING SERVICES CORPORATION
St. Paul Seattle



LEGEND

- A-1 Limited Agriculture
- A-2 General Agriculture
- R-1 Residential
- C-1 Commercial
- I-1 Industrial
- W-D Waterfront District