

A. INTRODUCTION

- 1.1 **TITLE:** This ordinance shall be known as the “ZONING ORDINANCE OF PELICAN TOWNSHIP.”
- 1.2 **PURPOSE:** The purpose of this ordinance is to preserve and promote the health, safety, public convenience, agricultural use of the land, general prosperity, and the general welfare and orderly development of Pelican Township and its residents.
- 1.3 **AUTHORITY:** These regulations are adopted under the authority granted by Chapter 58-03 of the North Dakota Century Code, as well as other state and federal laws and statutes.
- 1.4 **REPEAL:** All other ordinances or regulations or parts thereof of Pelican’s Township in conflict with these regulations are hereby repealed.
- 1.5 **SEVERABILITY:** If any section, paragraph, clause, or provision of this ordinance should be declared invalid or unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall be in full force and effect. Toward that end, the provisions of these regulations are declared to be severable.
- 1.6 **EFFECTIVE DATE:** This ordinance shall be in full force and effect from and after its passage and approval by the Pelican Township Board of Supervisors.
- 1.7 **DEFINITIONS:** For the purpose of this ordinance, the following definitions have been adopted.
- 1.7.1 The word “shall” is mandatory, and not discretionary; the word “may” is permissive.
- 1.7.2 Words used in the present tense shall include the future and words used in the singular shall include the plural, and the plural the singular.
- 1.7.3 Words shall be given their common usage if not defined.
- 1.7.4 **ACCESSORY USE OR ACCESSORY STRUCTURE:** A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use, such as a garage or tool shed.
- 1.7.5 **AGRICULTURE:** The use of land for agricultural purposes, including the necessary buildings or structures for farm or farm labor use. Agriculture shall include farming, dairying, pasturage, horticulture, animal and poultry husbandry, and accessory uses and buildings for packing, treating, or storing produce, providing accessory uses are secondary to normal agricultural activities.

- 1.7.6 ANIMAL FEEDING OPERATION (AFO): Means a lot or facility, other than an aquatic animal production facility, where the following conditions are met:
- 1.7.6.1 Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period; and
 - 1.7.6.2 Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.
- 1.7.7 ANIMAL HOSPITAL: A facility operated by or under the direct supervision of a licensed veterinarian.
- 1.7.8 ANIMAL UNIT (AU): A unit of measure used to compare differences in the production of animal manures that employs as a standard the average weight of the animal divided by 1000 pounds. The total number of animal units subject to permit or registration shall be determined by including operations under common ownership or management and which utilize a common area or system for manure disposal. For purposes of this ordinance, the following equivalents shall apply (obtained from N.D.C.C. § 58-03-11.1(2)). For purposes of this section, animal units are determined as follows:
- 1.7.8.1 One mature dairy cow, whether milking or dry, equals 1.33 animal units;
 - 1.7.8.2 One dairy cow, heifer, or bull, other than an animal described in subdivision A equals 1.0 animal unit;
 - 1.7.8.3 One weaned beef animal, whether a calf, heifer, steer, or bull, equals 0.75 animal unit;
 - 1.7.8.4 One cow-calf pair equals 1.0 animal unit;
 - 1.7.8.5 One swine weighing fifty-five pounds (24.948 kilograms) or more equals 0.4 animal unit;
 - 1.7.8.6 One swine weighing less than fifty-five pounds (24.948 kilograms) equals 0.1 animal unit;
 - 1.7.8.7 One horse equals 2.0 animal units;
 - 1.7.8.8 One sheep or lamb equals 0.1 animal unit;
 - 1.7.8.9 One turkey equals 0.0182 animal unit;
 - 1.7.8.10 One chicken, other than a laying hen, equals 0.008 animal unit;
 - 1.7.8.11 One laying hen equals 0.012 animal unit;
 - 1.7.8.12 One duck equals 0.033 animal unit; and
 - 1.7.8.13 Any livestock not listed in paragraphs 1.2.8.1 through 1.2.8.13 equals 1.0 animal unit per each one thousand pounds (453.59 kilograms) whether single or combined animal weight.

- 1.7.9 ANIMAL WINTERING OPERATION: A parcel of land where animals are sheltered incidental to farming at any time between October 15 and May 15 of cash production cycle when these animals do not obtain a majority of their feed and nutrients from grazing. This term includes weaned offspring of cattle and sheep, but it does not include: (1) breeding operations of more than 1000 animal units; or (2) weaned offspring which are kept longer than 120 days and that are not retained for breeding purposes. For purposes of numbers, two or more animal wintering operations under common ownership are a single animal wintering operation if they adjoin each other or if they use a common area or system for manure handling or disposal.
- 1.7.10 BOARD: Includes the "Pelican Township Board of Supervisors" or any other word or words meaning the "Pelican Township Board of Supervisors."
- 1.7.11 BUILDING: Any structure used for shelter or enclosure of persons, animals, or chattels.
- 1.7.12 CAMPGROUND: A public or private area for short term [less than fourteen (14) days] parking of camper trailers or tents for business or recreational purposes.
- 1.7.13 COMMISSION: Includes the "Pelican Township Zoning Commission" or any other words or word meaning the "Pelican Township Zoning Commission."
- 1.7.14 CONDITIONALLY PERMITTED USE: A use conditionally permitted to reduce any adverse effects on surrounding property. The words "conditional" and "special" shall be used synonymously.
- 1.7.15 CONCENTRATED ANIMAL FEEDING OPERATION (CAFO): Means an animal feeding operation that is defined as a large concentrated animal feeding operation, as a medium concentrated animal feeding operation, or is a small or other type of animal feeding operation designated as a concentrated animal feeding operation in accordance with Section 33-16-03.1-04 of the North Dakota Administrative Code. For purposes of determining animal numbers, two or more feeding operations under common ownership are a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes. All concentrated animal feeding operations are required to obtain a North Dakota pollutant discharge elimination system permit pursuant to chapter 33-16-01 of the North Dakota Administrative Code.

For the purpose of these regulations, Animal Feeding Operations and Concentrated Animal Feeding Operations are divided into small, medium, and large Animal Feeding Operations and Concentrated Animal Feeding Operations as set forth in N.D.A.C. 33-16-03.1-03.

- 1.7.16 DISTRICT: A section or sections of the township for which regulations governing the use of building and premise, the building heights, size of yards, lot area, lot width and the use are uniform.
- 1.7.17 DUE PROCESS: Involves two essential elements: (1) notice; and (2) an opportunity for a hearing. The notice must adequately describe the potential action that might affect the person(s) being notified and it must provide the person(s) a reasonable time to respond. If the person(s) request(s) a hearing, the hearing must be fair and allow the person(s) to present relevant evidence and arguments.
- 1.7.18 DWELLING: A building or portion thereof occupied exclusively for residential purposes, but not including mobile recreational vehicles such as motor homes or travel trailers.
- 1.7.19 DWELLING, FARM: A single family dwelling or permanently established mobile home located on a farm which is occupied by the farm's owner/operator or person employed thereon.
- 1.7.20 DWELLING, NON-FARM: A single family dwelling or permanently established mobile home located on a farm, or otherwise, of which the occupant does not derive at least fifty (50) percent of his gross income from agricultural activities.
- 1.7.21 ESTABLISHED RESIDENCE: Any residence established by a personal presence, in a fixed and permanent dwelling with an intention to remain there.
- 1.7.22 EXISTING: In place and operating on the date this ordinance is effective.
- 1.7.23 FAMILY: A group of one or more persons occupying a single premise and living as a single housekeeping unit.
- 1.7.24 FARM: Any aggregate area operated by one person, family, partnership, corporation or joint venture for agricultural or farming purposes.
- 1.7.25 FARMING: *See* Agriculture
- 1.7.26 FEEDLOT: A parcel of land which contains an animal feeding operation or a confined animal feeding operation as defined by this ordinance.
- 1.7.27 GRAIN CLEANING PLANT: A permanent structure for cleaning seeds or grain as a commercial venture.

- 1.7.28 GRAIN ELEVATOR: A business for the purpose of buying, selling, and storage of agricultural products and feeds.
- 1.7.29 HOME OCCUPATION: Any occupation (1) which is carried on solely by members of the family residing on the premise, (2) is clearly secondary to the use of the dwelling for residential purposes, and (3) does not create excess noise, traffic, or other disturbances.
- 1.7.30 LIVESTOCK: Any animal raised for food, raw materials, or pleasure, including, but not limited to, beef and dairy cattle, bison, sheep, swine, poultry, and horses. Livestock also includes fur animals raised for pelts.
- 1.7.31 LOT: A parcel of land sufficient to provide the yard requirements of the regulation.
- 1.7.32 MOBILE HOME: A mobile home is a dwelling unit designed for transport after construction, thereafter being established on a permanent foundation. A recreational travel trailer or motor home shall not be considered as a mobile home. A "skid shack" shall not be considered a mobile home.
- 1.7.33 NDDH: North Dakota Department of Health.
- 1.7.34 NON-CONFORMING USE: Any structure, land or building existing at time of adoption or amendment of this ordinance which does not conform to the provisions of the regulations.
- 1.7.35 OPERATOR: An individual, corporation, cooperative, group of individuals, partnership, joint venture, or any other entity owning or controlling one or more venture.
- 1.7.36 ORDINANCE: Regulations contained in this document. The words "ordinance" and "regulation" shall be used synonymously.
- 1.7.37 OWNER: The person who has title to the property.
- 1.7.38 PARK: An area or open space (public or private) set aside for recreational purposes.
- 1.7.39 PERMIT, STATE: A document issued by the NDDH which contains requirements, conditions, and compliance schedules relating to the discharge of animal manure pollutants, and, issued to the contractor, owner or operator, cooperative, stating that the feedlot meets the minimum standards as required by this Ordinance and the NDDH.

- 1.7.40 **PERMIT, TOWNSHIP:** A document issued by Pelican Township which contains conditions and compliance schedules relating to the discharge of animal pollutants, and, issued to the contractor, owner or operator, cooperative, stating the feedlot meets the minimum standards as required by this Ordinance and the NDDH.
- 1.7.41 **PERSON:** The word “person” includes a firm, association, organization, partnership, trust, company, cooperative, corporation, or individual.
- 1.7.42 **RANCHING:** *See Agriculture*
- 1.7.43 **SETBACK:** The distance from a property boundary enclosing a concentrated animal feeding operation, including its animal waste collection system, and the nearest occupied residence, the nearest buildings used for nonfarm or non-ranch purposes, or the nearest land zoned for residential, recreational, or commercial purposes.
- 1.7.44 **STOCKYARDS:** A business engaged in the buying and selling of livestock, but not the feeding of livestock.
- 1.7.45 **STRUCTURAL ALTERATION:** Any change in the supporting members or any substantial alteration or change in the roof or exterior walls of a building.
- 1.7.46 **UTILITIES:** Including, but are not limited to, electrical power and transmission lines, natural gas or petroleum pipelines, water supply lines, and communications or telephone lines.
- 1.7.47 **VARIANCE:** The grant of relief from the requirements of the ordinance where it can be shown that due to unusual conditions of the property, strict application of the regulations would result in undue hardship.

B. GENERAL PROVISIONS

- 1.1 **JURISDICTION:** The jurisdiction of the Ordinance shall include all unincorporated areas of Pelican Township in Ramsey County, North Dakota. Provisions contained herein are applicable to all individuals, persons, governmental or nongovernmental agencies, and independent contractors residing or entering in Pelican Township, or whose agent or employees reside in or enter Pelican Township.
- 1.2 **COMPLIANCE:** Except as hereinafter provided, no building, structure or land shall be used, occupied, erected, constructed, moved, reconstructed, or structurally altered except in conformity with all the regulations for the district in which it is located.

- 1.3 **FARMING OR RANCHING:** These regulations shall not be applied for preventing or prohibiting the use of land or buildings for farming or ranching or any of the normal incidents of farming or ranching, provided the principal income of the operators is derived from agriculture.

IN ANY CASE WHERE AN AGRICULTURAL USE MAY INTERFERE DIRECTLY WITH REGULAR ROAD MAINTENANCE, THESE REGULATIONS SHALL APPLY REGARDLESS OF THE USE OF THE AREA IN QUESTION.

- 1.4 **INTERPRETATION:** Where this ordinance imposes a greater restriction than existing law, the provisions of this Ordinance shall govern.

1.5 **NON-CONFORMING USES:**

- 1.5.1 Lawful, non-conforming uses of land or buildings existing at the date of adoptions of these regulations may continue, provided no structural alterations except for normal maintenance are performed, and such non-conforming uses shall not be extended to occupy a greater area of land than occupied at the time of adoption. A change in zoning district, amendment to the ordinance, or conditional use permit may be requested of the Township Zoning Commission for such changes.

- 1.5.2 No land, building, or structure where a non-conforming use has been discontinued for a period of one (1) year, or has changed to a permitted use, shall again be devoted to a non-conforming use.

- 1.5.3 A non-conforming structure destroyed or damaged in the amount of less than fifty (50) percent of its fair market value may be reconstructed within one (1) year of such casualty. If damaged more than fifty (50) percent of the fair market value, such structure shall be reconstructed in conformance to these regulations.

- 1.5.4 The provisions of this section shall not be made applicable to conditional uses, or any use made non-conforming by a change of district regulations.

- 1.6 **SANITARY REGULATIONS:** All agricultural, residential, business, or industrial structures or activity shall conform to the North Dakota health regulations, District Health regulations as related to wells, irrigation, and septic and/or sanitary systems, or if such regulations are deemed to not be applicable, to regulations and plans arrived at through a mutually agreeable manner between the Zoning Commission and the other parties involved.

- 1.7 **FLOOD AND/OR DRAINAGE CONTROL AND MAINTENANCE:** No actions of any individual, corporation, foundation, institution, firm, bureau, partnership, company, association or agency shall engage in any agreement, that will limit the rights or duties of

the Township Zoning Commission or township supervisors to maintain, repair, manage, or promote natural drainage channels to prevent, alleviate any flooding that affects the township or its residents, federal, state, township, and municipal right of ways.

1.8 CONSTRUCTIONS OF RIGHT OF WAY APPROACHES:

1.8.1 Approach placement or improvement shall be determined by the county engineer of Ramsey County.

1.8.2 Each application shall be determined on its own merits. Should such approach be constructed, it shall be done in such a manner as to not impede natural water drainage flow, and any needed culverts shall be the responsibility of the operator, and not the township. Improvements shall be approved before construction begins.

1.9 ROADS: The condition and upkeep of the roads in Pelican Township is under the control of the Pelican Township Board of Supervisors.

1.9.1 A separate road maintenance agreement for access roads, and for township, county, or other public roadways, stating responsibility for maintenance or reconstruction on roads which are used as ingress and egress routes by the person(s) or business(es) developing the property shall be presented to the Board prior to commencement of such activities.

1.9.2 Any person(s) wishing to put in a public boat dock or six (6) or more site campground shall have a signed road agreement with the Board.

C. DISTRICTS AND BOUNDARIES

1.1 ESTABLISHMENT OF DISTRICT(S): To effectively carry out the provisions of these regulations, the land covered by the jurisdiction of these regulations (i.e., Pelican Township) shall be zoned agricultural and recreational. Pelican Township Board of Supervisors reserves the right to amend these regulations at a future time to include some, or all, of the following districts and to enact such regulations as may be necessary and appropriate to further the intentions of this ordinance:

Agricultural District 'AG'

Recreational District 'RE'

Rural Commercial District 'RC'

Rural Residential District 'RR'

1.2 ZONING MAP: The location and boundaries of the zoning districts are hereby established as shown on the map entitled PELICAN TOWNSHIP ZONING MAP, which shall be attached to this ordinance, and is hereby made a part of the regulations.

1.3 INTERPRETATION OF BOUNDARIES:

- 1.3.1 Where the district boundary lines on the ZONING DISTRICT MAP are indicated to follow highway, road, or railroad rights-of-way, such boundary lines shall be constructed to be the center line of said rights-of-way unless clearly shown to the contrary.
- 1.3.2 Where any uncertainty exists as to the exact location of the zoning district boundary line, the Commission shall determine the location of such boundary lines. Costs incurred for said determinations shall be paid by the requesting parties or from Township General Fund monies if no specific parties originated the request, or if equitable determination for assessment of fees cannot be determined.
- 1.3.3 Any incorporated municipality, if any, within the township having established zoning ordinances shall take precedence over township zoning.

D. ADMINISTRATION AND ENFORCEMENT

1.1 TOWNSHIP PLANNING AND ZONING COMMISSION: Membership of the Commission shall consist of three members of the Pelican Township Board of Supervisors and two residents of the township as appointed by the Board. Duties of the Commission shall include:

- 1.1.1 Establishment of rules, regulations, and procedures for administering the zoning ordinance.
- 1.1.2 Assist the Zoning Administrator in conducting inspections of buildings or other regulate activities, and administering the zoning ordinance.
- 1.1.3 Hear and decide appeals where it is adjudged by the applicant that an error in judgment has been made by the zoning administrator.
- 1.1.4 Review and study from time to time, the provisions of the regulations.
- 1.1.5 The Zoning Commission shall serve as an advisor to the Township Board. The Township Board of Supervisors shall have final adjudication of all Zoning Commission decisions.

1.2 APPEALS: Any person aggrieved by the provisions of these regulations, or by any order of determination of the Zoning Administrator may, within sixty (60) days of such action, petition for a hearing to the Township Zoning Commission. Such appeal shall be in writing and shall specify in detail the grounds for the appeal.

- 1.2.1 Appeals shall be filed with the zoning administrator.
- 1.2.2 Within thirty (30) days of filing, the Township Zoning Commission shall fix a date for a hearing.
- 1.2.3 Notice in writing, by certified mail, shall be given to the petitioner at least five (5) days prior to the date of the hearing.
- 1.2.4 Within fifteen (15) days after the hearing, the Zoning Commission shall take action, and shall mail, by certified mail, a copy of its order to the petitioner.

1.3 VARIANCES: As used in this ordinance, a variance is authorized only for height, area, or size of structures or yards. No variance shall be issued that would provide a change in zoning district. **NO VARIANCE SHALL BE AUTHORIZED UNLESS THE ZONING COMMISSION FINDS CAUSE THAT ALL THE FOLLOWING CONDITIONS EXIST:**

- 1.3.1 That there are exceptional and extraordinary circumstances applying to the property in question, or to the intended use of the property that do not apply generally to other properties, class, or use in the same zoning district.
- 1.3.2 That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district, and in the vicinity.
- 1.3.3 That the authorization of such variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the regulations, nor the public interest.
- 1.3.4 The owner cannot otherwise obtain a reasonable return on this property.
- 1.3.5 The hardship is not self-created.
- 1.3.6 The variance request is the minimum necessary to permit a reasonable use of the land.

1.4 CONDITIONALLY PERMITTED USES: No permit pertaining to the conditional use of land or buildings shall be issued unless:

- 1.4.1 An application for a conditional use permit has been submitted to the Zoning Commission for review, and necessary fees paid to the Township.
- 1.4.2 The Zoning Commission has held a public hearing.

- 1.4.3 The Zoning Commission has made written findings certifying compliance with rules governing conditional uses, and that where applicable, satisfactory provision for the following has been made:
 - 1.4.3.1 Entrance and exit to property with references to access, public safety, traffic flow, and convenience.
 - 1.4.3.2 Parking and loading requirements and required open space and yards of the specific use.
 - 1.4.3.3 General compatibility with the surrounding property with due consideration for noise, odor or other adverse effects.
 - 1.4.3.4 Any other applicable circumstances that may need further attention, including, but not limited to; sewer, water, fire, police, and other matters of concern in specific applications.
- 1.4.4 Conditional use permits shall be subject to review, and may be canceled according to the terms specified in the permit. The permit, if not utilized within the prescribed period, shall expire automatically as specified in the permit.
- 1.5 **ZONING ADMINISTRATOR:** A Zoning Administrator shall be appointed by the Planning and Zoning Commission. Co-Administrators may be established, or they appoint a designee to execute specific aspects of their duties. Duties of the Zoning Administrator shall include:
 - 1.5.1 Issuance of all permits, and maintains regulations and permits.
 - 1.5.2 Conduct inspection of all buildings, and other activities included under the restrictions, guidelines, or regulations of this ordinance.
 - 1.5.3 Transmit to the Zoning Commission all applications for appeals, variances, or conditional use permits, and all applications for amendments to the Board.
- 1.6 **BUILDING PERMITS:** No substantial structure [greater than one hundred twenty (120) square feet] for residential or commercial purposes including accessory uses shall be built, altered, or moved, until a permit has been obtained from the Zoning Administrator.
 - 1.6.1 No permit shall be required for maintenance or repair of any building which does not alter the plan or size of the structure.
 - 1.6.2 No building permit shall be required for agricultural use.
 - 1.6.3 No building permit shall be issued until the Zoning Administrator has approved in writing an approach permit for access to the lot upon which the permit is requested, and that the approach planned for access to the property for which a permit is sought conforms to Township standards.

1.6.4 The State Building Code, Electrical Code, and Plumbing Code as established pursuant to the North Dakota Century Code shall be the Building Codes of Pelican Township for regulating and governing the conditions and maintenance of property, buildings, and structures.

1.7 **SURETY BONDS:** Any conditional use permit (for a project exceeding \$500,000.00) will not be issued without an adequate surety bond that ensures the property will be returned to a condition agreeable to the involved parties. The amount of the surety bond will be determined by the Township Board.

1.8 **VIOLATIONS OF REGULATIONS:** A violation of this ordinance is an offense punishable by a fine not to exceed five hundred dollars (\$500.00) per day for each day that any violator fails to comply with the provisions of these regulations. All fines for violations shall be paid to the Township Clerk-Treasurer, and shall be credited to the general fund of the Township. In addition to other remedies, townships may institute any appropriate actions or proceedings in accordance with N.D.C.C. Chapter 58-03-14. Other violations, damage, or willful disregard for these regulations shall be assessed fees equal to triple the costs of repairing or reconstructing said damages, or correcting the actions of violators, or above fees or five hundred dollars (\$500.00), whichever is the greater amount. Whenever a violation of this ordinance occurs, any person who normally resides within the township, or is a qualified elector of the township, or has any other legitimate interests in the township, may file complaint in regard thereto. All such complaints shall be filed with the Zoning Administrator, who shall investigate such violation(s), and report to the Board of Township Supervisors for appropriate action.

1.9 **FEES:** For the purpose of administering this ordinance, the Board may institute fees. Said fees shall not exceed an amount deemed fair and reasonable, using current wage and material costs when fees are assessed, as a basis for establishing said fees, and may be revised at any time without notice.

INITIAL PERMIT FEE SCHEDULE	
Application for Conditionally Permitted Uses	\$200.00
Application for Change of Zoning District	\$500.00
Application for Variance to Zoning Regulation	\$500.00
Application for Amendment to Zoning Regulation	\$500.00
Application for Building Permit	\$50.00

And in addition, the applicant for a conditional use permit and amendment to the zoning ordinance, or building permit, shall be liable for and pay to the township clerk sufficient sums of money to pay for and cover all the costs incurred by the township for the processing of such application, including, but not limited to: publication costs; attorney's fees; survey fees; engineering fees; mileage; copy expenses; etc. No permit shall be issued until all such costs

as these described herein have been paid by the applicant, unless the Township Zoning Commission has otherwise provided by resolution for a particular case.

All applications shall be reviewed at the regularly scheduled Zoning Commission meeting. If a special meeting is required for transactions with the Zoning Commission all costs incurred, including but not limited to, board salaries, publication costs, printing costs shall be payable by applicant.

1.10 AMENDMENTS:

1.10.1 The Township Board of Supervisors may, from time to time, and pursuant to the laws of this State, amend the provisions of this ordinance.

1.10.2 Such amendment shall not become effective until after a public hearing at which parties of interest and citizens shall have the opportunity to be heard.

1.10.3 At least fifteen (15) days' notice of the time and place of such meeting shall be published in the official newspaper of the county.

1.10.4 The description of any land within any zoning district, together with any restriction therein, or any amendment to the zoning ordinance, shall be filed with the Township Board of Supervisors.

E. ZONED DISTRICTS

1.1 Agricultural Districts

1.1.1 **Agricultural District Purposes:** Each Agricultural District is established as a district in which the predominant use of the land is for general agricultural uses. The general purposes of an Agricultural District are as follows:

1.1.1.1. To encourage the continued use of land for agricultural uses;

1.1.1.2. To discourage scattered commercial, industrial, or other non- agricultural uses of the land which would interfere with an integrated and efficient development of the land; and

1.1.1.3. To discourage any use, which because of its character or size, would create unusual requirements and costs of public services such as police and fire protection, water supply, and sewerage, before such services can be systematically and adequately developed and provided.

1.1.2 **Agricultural District Permitted Uses:** The following uses are permitted in each Agricultural District within Pelican Township.

- 1.1.2.1 General farming operations, including farm dwellings (provided such are maintained in connection with a farm or farming operations) and agricultural buildings, nurseries, and tree farms.
- 1.1.2.2 Single family dwellings related to an individual farming operation.
- 1.1.2.3 Churches and similar places of worship, parish homes, and cemeteries.
- 1.1.2.4 Storage of agricultural products and minor handling, according to regulations of the North Dakota Department of Environmental Quality or the State Health Department.
- 1.1.2.5 Home occupations and accessory uses customarily incident to the uses permitted in this district.
- 1.1.2.6 Hunting, fishing, and other recreational activities are permitted without restriction, provided that all laws of traffic, safety, access, game management, and regulations of this ordinance are followed.
- 1.1.2.7 Shelter belts and tree planting.
 - 1.1.2.7.1 No shelter belts or major tree plantings shall be established within 100 feet of any section line, property line, or from the boundary of any township, county, state, or federal highway right-of-way, except by conditional use permit.
 - 1.1.2.7.2 The Board may, by a resolution of record, agree with a request from adjoining and consenting landowners to the placement of a shelterbelt on a property line at a distance less than 100 feet.
 - 1.1.2.7.3 In the event an existing shelterbelt or tree planting is destroyed by or for any reason, replanting must comply with the setback provisions of these regulations.
- 1.1.2.8 Water wells for agriculture, and nonfarm dwellings having conditional permits.
- 1.1.3 **Agricultural District Conditionally Permitted Uses:** The following conditional uses and their accessory uses are permitted, subject to the issuance of a conditional use permit issued in advance by the Township Zoning Commission. All buildings and structures shall be no less than one hundred (100) feet from all section lines and the centerlines of township and county roads, or from the right-of-way boundary of state or federal roads.

1.1.3.1 Nonfarm dwellings conditioned upon the following:

- 1.1.3.1.1 Lot size of not less than five (5) acres.
- 1.1.3.1.2 Lot location shall provide its own access to an existing improved road.
- 1.1.3.1.3 Minimum lot width of three hundred fifty (350) feet; Minimum side yard of forty (40) feet; Height maximum of thirty-five (35) feet; Setbacks shall be one hundred (100) feet from center line of street or road/
- 1.1.3.1.4 Mobile homes shall be registered and display current registration.
- 1.1.3.1.5 Mobile homes shall be anchored.
- 1.1.3.1.6 All dwellings shall front on, or have direct access to an established township, county, state, or federal road.
- 1.1.3.1.7 Township bears no responsibility to provide a culvert or approach to any new building, and the care and maintenance of the access road to all buildings shall be the responsibility of the owner.

1.1.3.2 Schools.

1.1.3.3 Oil, gas, mineral and gravel exploration and production:

- 1.1.3.3.1 It is not the intent of Pelican Township to discourage the exploration or production of oil, gas, minerals, gravel, scoria, or any other surface or subsurface material for private or commercial purposes; however, the township does wish to protect its roads, right-of-ways, and other developments from excessive use and deterioration. As such, all excavations of oil, gas, minerals, gravel, clay, scoria, or other such resources shall be considered as a conditional use, and such shall conform to all requirements put on the applicants by the zoning authority.

1.1.3.4 Water well drilling other than agricultural or residential.

1.1.3.5 Radio, television, or other towers.

1.1.3.6 Utilities.

1.1.3.7 Parks.

1.1.3.8 Animal hospitals.

1.1.3.9 Fire stations.

1.1.3.10 Grain cleaning plants and grain elevators.

1.1.3.11 Stockyards.

1.1.3.12 Animal Feeding Operations subject to the provisions of Section F.

1.1.4 **Agricultural District Prohibited Uses:** Any land uses which are not listed in section E.1.1 as a permitted use or as a conditionally permitted use shall be considered a prohibited use and shall not be allowed in an Agricultural District.

1.2 Recreational Districts

1.2.1 **Recreational District Purposes:** The location and boundaries of each Recreational District are established as described in a March 12, 2021 resolution of the Pelican Township Zoning Commission, which, in addition to the zoning map referenced in section C.1.2 above, shall be attached to this ordinance, and is hereby made a part of the regulations. The general purposes of a Recreational District are as follows:

1.2.1.1 To encourage and protect the continued and future use of land for recreational uses, including tourism and the preservation of lands for cemeteries and other uses of cultural or historic significance.

1.2.1.2 To discourage scattered non-recreational uses of the land which would interfere with an integrated and efficient development of the land; and

1.2.1.3 To discourage any use, which because of its character or size, would create unusual requirements and costs of public services such as police and fire protection, water supply, and sewerage, before such services can be systematically and adequately developed and provided.

1.2.2 **Recreational District Permitted Uses:** The following uses are permitted in each Recreational District within Pelican Township.

1.2.2.1 Campgrounds with five (5) or fewer camp sites.

1.2.2.2 Churches and similar places of worship, parish homes, and cemeteries.

1.2.2.3 Hunting, fishing, and other recreational activities are permitted without restriction, provided that all laws of traffic, safety, access, game management, and regulations of this ordinance are followed.

- 1.2.2.4 General farming operations, including farm dwellings (provided such are maintained in connection with a farm or farming operations) and agricultural buildings, nurseries, and tree farms.
- 1.2.2.5 Single family dwellings related to an individual farming operation.
- 1.2.2.6 Storage of agricultural products and minor handling, according to regulations of the North Dakota Department of Environmental Quality or the State Health Department.
- 1.2.2.7 Home occupations and accessory uses customarily incident to the uses permitted in this district.
- 1.2.2.8 Shelter belts and tree planting.
 - 1.2.2.8.1 No shelter belts or major tree plantings shall be established within 100 feet of any section line, property line, or from the boundary of any township, county, state, or federal highway right-of-way, except by conditional use permit.
 - 1.2.2.8.2 The Board may, by a resolution of record, agree with a request from adjoining and consenting landowners to the placement of a shelterbelt on a property line at a distance less than 100 feet.
 - 1.2.2.8.3 In the event an existing shelterbelt or tree planting is destroyed by or for any reason, replanting must comply with the setback provisions of these regulations.
- 1.2.2.9 Water wells for agriculture, recreation, and nonfarm dwellings having conditional permits.
- 1.2.3 **Recreational District Conditionally Permitted Uses:** The following conditional uses and their accessory uses are permitted, subject to the issuance of a conditional use permit issued in advance by the Township Zoning Commission. All buildings and structures shall be no less than one hundred (100) feet from all section lines and the centerlines of township and county roads, or from the right-of-way boundary of state or federal roads.
 - 1.1.3.1 Rental houses, cabins, and other rental lodging.
 - 1.1.3.2 Campgrounds with six (6) or more sites.
 - 1.1.3.3 Public boat docks.

- 1.1.3.4 Parks, campgrounds, or other areas used to provide camping or temporary parking areas and services for recreational motor vehicles homes and campers.
- 1.1.3.5 Nonfarm dwellings conditioned upon the following:
 - 1.1.3.5.1 Lot size of not less than five (5) acres.
 - 1.1.3.5.2 Lot location shall provide its own access to an existing improved road.
 - 1.1.3.5.3 Minimum lot width of three hundred fifty (350) feet; Minimum side yard of forty (40) feet; Height maximum of thirty-five (35) feet; Setbacks shall be one hundred (100) feet from center line of street or road/
 - 1.1.3.5.4 Mobile homes shall be registered and display current registration.
 - 1.1.3.5.5 Mobile homes shall be anchored.
 - 1.1.3.5.6 All dwellings shall front on, or have direct access to an established township, county, state, or federal road.
 - 1.1.3.5.7 Township bears no responsibility to provide a culvert or approach to any new building, and the care and maintenance of the access road to all buildings shall be the responsibility of the owner.
- 1.1.3.6 Schools.
- 1.1.3.7 Oil, gas, mineral and gravel exploration and production:
 - 1.1.3.7.1 It is not the intent of Pelican Township to discourage the exploration or production of oil, gas, minerals, gravel, scoria, or any other surface or subsurface material for private or commercial purposes; however, the township does wish to protect its roads, right-of-ways, and other developments from excessive use and deterioration. As such, all excavations of oil, gas, minerals, gravel, clay, scoria, or other such resources shall be considered as a conditional use, and such shall conform to all requirements put on the applicants by the zoning authority.
- 1.1.3.8 Water well drilling other than agricultural or residential.
- 1.1.3.9 Radio, television, or other towers.
- 1.1.3.10 Utilities.

1.1.3.11 Parks.

1.1.3.12 Animal hospitals.

1.1.3.13 Fire stations.

1.1.3.14 Grain cleaning plants and grain elevators.

- 1.2.4 **Recreational District Prohibited Uses:** Any land uses which are not listed in section E.1.2 as a permitted use or as a conditionally permitted use shall be considered a prohibited use and shall not be allowed in a Recreational District.

F. ANIMAL FEEDING OPERATION (“AFO”) REGULATIONS

- 1.1 **Intent and Purpose:** These regulations are designed to allow Animal Feeding Operations for feeding livestock, furbearers, and poultry and at the same time protect the adjoining uses against odor, run off, and other incompatible characteristics with animal feeding operations.

1.2 GENERAL PROVISIONS AND REQUIREMENTS

- 1.2.1 **Scope.** From and after the effective of this ordinance and subsequent amendments, all existing or proposed animal feeding operations shall be in conformity with the provisions of this ordinance.
- 1.2.2 Animal Feeding Operations are only permitted as conditional uses subject to the provisions of this ordinance and the requirements and permitting of the NDDH. A conditional use permit must be obtained and submitted to the Board for its approval.
- 1.2.3 In addition to the requirements for a conditional use permit elsewhere contained in this Ordinance, an Applicant must provide the following documents for its application to be deemed complete:
- 1.2.3.1 The application for a conditional use permit to operate a facility for an animal feeding operation shall include a scaled site plan. If the facility will handle more than 1000 animal units, the scaled site plan shall be prepared by a registered land surveyor, a civil engineer, or other person having comparable experience or qualifications. The Township may require any or all of the following elements, or require additional elements, in its site plan review process when needed to determine the nature and scope of the animal feeding operation: (i) Proposed number of animal units; (ii) Legal descriptions of the site and its associated lands; (iii) Existing and

proposed roads and access ways within and adjacent to the site of the facility; (iv) Surrounding land uses and ownership, if the operation will have the capacity to handle more than 1000 animal units; and (v) A copy of the permit application submitted by the applicant to the Department of Health.

- 1.2.4 In the event of a violation of this ordinance or a judgment on a civil action by the NDDH, the office of the Attorney General, or a person authorized to maintain an action under N.D.C.C. § 42-01-08, then the Township, after due process, in addition to the other penalties enumerated within this ordinance, can order cessation of a facility for animal feeding within a reasonable period and until the owner/operator corrects or abates the cause(s) of the violation. If the cause(s) of the violation are not remedied within a reasonable period as set by the Township, the permit may be revoked.

1.3 REQUIRED SETBACKS AND SEPARATION DISTANCES FOR ANIMAL FEEDING AND THOSE EXPANDING OPERATIONS

- 1.3.1 Required Setbacks and Separation Distances for New Animal Feeding Operation: The owner/operator of a new animal feeding operation shall locate the site of that operation pursuant to the distances set forth below from existing residences, businesses, churches, schools, and public parks as well as areas of property that are zoned residential, recreational, or commercial:

1.3.1.1 If there are fewer than three hundred animal units, the setback for any animal operation is .5 miles.

1.3.1.2 If there are at least three hundred animal units but no more than one thousand animal units, the setback for any animal operation is .75 miles.

1.3.1.3 If there are at least one thousand one animal units but no more than two thousand animal units, the setback for a hog operation is 1.125 miles and the setback for any other animal operation is .75 miles.

1.3.1.4 If there are at least two thousand one animal units but no more than five thousand animal units, the setback for a hog operation is 1.50 miles and the setback for any other animal operation is 1.125 miles.

1.3.1.5 If there are five thousand one or more animal units, the setback for a hog operation is 2.25 miles and the setback for any other animal operation is 1.50 miles.

The distance of the setback is calculated from the property line of the preexisting use to the facility. In areas agricultural zoned land, the setback distance shall be calculated from the area of residential use.

In addition to the above guidelines, all animal feeding operations shall maintain a setback of one quarter mile (1/4 mi.) from all federal or state highway rights-of-

way. A one hundred fifty-foot (150') setback from all county and township road rights-of-ways and adjacent property lines shall be maintained.

1.3.2 Existing Animal Feeding Operations.

1.3.2.1 An individual or entity who wishes to establish a residence, business, church, school, public park, or zone for residential use, must comply with the above-referenced setbacks to provide a separation distance from any existing animal feeding operation.

1.3.2.2 An owner/operator of an existing animal feeding operation may locate the owner's residence or business within the setbacks.

1.3.2.3 Expansion of permitted animal units up to twenty-five percent shall require notification of the Pelican Township Board of Supervisors within ten (10) days of expansion.

1.3.2.4 If notified in writing by an owner/operator of a planned future expansion of an animal feeding operation, the Township may implement the corresponding odor setback for a temporary time not to exceed two years, after which time the setback will remain in effect only if the expansion was completed.

Pelican Township Supervisor Clark Steinhaus introduced the following resolution and moved for its adoption:

RESOLUTION TO ENACT THE ZONING ORDINANCE OF PELICAN TOWNSHIP

Be it ordained by the Pelican Township Board of Supervisors, Ramsey County, North Dakota, after making its findings consistent with N.D.C.C § 58-03-13, hereby adopts the attached *Zoning Ordinance of Pelican Township*, with the effective date of March 12, 2021.

Pelican Township Zoning Commissioner Tammy Tollefson

seconded the motion. On roll call, the following Commissioners voted in favor of said motion:

Gerry Miller, Clark Steinhaus, Lois Steinhaus,
Tammy Tollefson, Chad Hoffart. The

following Commissioners voted nay: 0

_____. The

majority having vote aye, the motion was carried and the resolution was duly adopted and submitted to the Board of Supervisors.

APPROVED:

Clark Steinhaus 3-12/21
Chairman Date

Attest:

Lois Steinhaus 3/12/21
Clerk Date

Pelican Township Zoning Commissioner Lois Steinhaus

introduced the following resolution and moved for its adoption:

RESOLUTION TO ZONE RECREATIONAL DISTRICTS

WHEREAS, Pelican Township is located within the Devils Lake drainage basin, a 3,810 square-mile enclosed sub-basin of the Red River of the North,

WHEREAS, in 1993, Devils Lake's water elevation was 1,422.62 feet, and the lake covered a surface area of 44,230 acres, but in that same year, the enclosed basin began to fill with more water,

WHEREAS, by 2011, Devils Lake had risen to 1,454.3 feet, an increase of 31.68 feet above its 1993 level, and increased in surface area by approximately 261 square miles, including flooding much of Pelican Township's agricultural land,

WHEREAS, Pelican Lake is located within Pelican Township, but the high waters of Devils Lake have spilled over and subsumed Pelican Lake for many years, and this hydrological condition is expected to exist for at least the next generation,

WHEREAS, the higher lake level has flooded approximately sixty percent of the usable lands within the township, from more than 17,000 acres to less than 7,000 acres, and the township has lost approximately seventy-eight percent of its roads, from approximately thirty-six miles of roads to eight miles of roads, and this markedly different township landscape necessitates an update of township zoning,

WHEREAS, lake water now covers the majority of Pelican Township's land, and the map included with the township ordinances needs to be made current, to show existing lake and land areas,

WHEREAS, the Devils Lake region is a popular fishing and outdoor recreation and tourism destination, and Pelican Township ordinances have long permitted, and will continue to permit, unrestricted recreational activities throughout the township,

WHEREAS, many areas of Pelican Township that were formerly homesteads, farmland, fields, pastures, or other agricultural lands, are now covered or adjoined by lake water, and there are now eighty-eight miles of lakeshore within the township,

WHEREAS, the changes of the landscape caused by the existing lake level make areas of Pelican Township more suitable for recreational uses and development, such as resorts, lodges, campgrounds, rental houses and cabins, recreational vehicle parks, docks, fishing and hiking guide services, recreational equipment rentals and sales, boat and recreational vehicle storage facilities, and other opportunities or businesses that would support and promote recreational activities and tourism in Pelican Township,

WHEREAS, Pelican Township has less recreational development than many other similarly situated Devils Lake region townships, and the creation of Recreational Districts in the township may promote beneficial development,

WHEREAS, family and friends of those buried or interred at cemeteries in the township visit, pay respects, and recreate in fellowship at those cemeteries, and others recreate by visiting these historic sites,

WHEREAS, developments in state law effectively require townships to zone land into separate zoning districts, rather than regulate for certain purposes within districts, to ensure such lands remain suitable for certain purposes, such as recreation,

WHEREAS, townships are granted powers by state law, including the authority to establish zoning districts under North Dakota Century Code §§ 58-03-11, 58-03-12, 58-03-13, and 58-03-14,

WHEREAS, the zoning of Recreational Districts within Pelican Township is consistent with and supported by the township's Comprehensive Plan, which, among other things, promotes the orderly development of lands within Pelican Township, and encourages non-farm growth to locate in certain communities, such as Recreational Districts,

NOW, THEREFORE, BE IT RESOLVED that, to promote the health, safety, morals, and general welfare of Pelican Township and its residents, and to secure the orderly development of the township, the Pelican Township Zoning Commission recommends that the Pelican Township Board of Supervisors zone the following areas of Pelican Township as Recreational Districts:

1. Recreational District One (RE1) is an approximately 126-acre district composed of two adjacent parcels:
 - a. Parcel # 15-0000-05480-001. Legal description: Tract in NE $\frac{1}{4}$ NW $\frac{1}{4}$ & GVT LOT 1 CONT 8.13A 26-154-66. This is an 8.13-acre parcel which contains lake shoreline and is surrounded by 117.6-acre parcel # 15-0000-05479-000 on the west, south, and east sides.
 - b. Parcel # 15-0000-05479-000. Legal description: LOT 2 NE $\frac{1}{4}$ NW $\frac{1}{4}$ & LOT 1 LESS TRACT 26-154-66. This is a 117.6-acre parcel that contains lake water, lakeshore, and surrounds 8.13-acre parcel # 15-0000-05480-001 on the west, south, and east sides.
2. Recreational District Two (RE2) is an approximately 232-acre district composed of three adjacent parcels:
 - a. Parcel # 15-0000-05407-002. Legal description: SE $\frac{1}{4}$ NE $\frac{1}{4}$ 14-154-66. This is a 40-acre parcel which contains recreational rental lodging near lakeshore. This

parcel is adjacent to both parcel numbers 15-0000-05407-050 and 15-0000-05405-001.

- b. Parcel # 15-0000-05407-050. Legal description: SW $\frac{1}{4}$ NE $\frac{1}{4}$ & S 100' of NW $\frac{1}{4}$ NE $\frac{1}{4}$ 14-154-66. This is a 43.03-acre parcel adjacent to parcel # 15-0000-05407-002, which contains recreational rental lodging near lakeshore, and is located between the rental lodging and the lake.
 - c. Parcel # 15-0000-05405-001. Legal description: NW $\frac{1}{4}$ LESS RAMSEY TOWNSITE & RR 13-154-66. This is a 147.7 acre parcel that contains a campground, surrounds the townsite of Ramsey on the west, north, and east sides, and is adjacent to parcel # 15-0000-05407-002, which contains recreational rental lodging.
3. Recreational District Three (RE3): Parcel # 15-0000-05389-000. Legal description: N $\frac{1}{2}$ NE $\frac{1}{4}$ 11-154-66. This is an approximately 80-acre district that contains lake water, lakeshore and a campground.
 4. Recreational District Four (RE4): Parcel # 15-0000-05457-003. Legal description: S $\frac{1}{2}$ SE $\frac{1}{4}$ 23-154-66. This is an approximately 80-acre district that contains lake water and lakeshore.
 5. Recreational District Five (RE5): Parcel # 15-0000-05462-100. Legal description: TRACT IN SE $\frac{1}{4}$ CONT 3.56A 24 154 66. This is an approximately 3.56-acre district that contains a church prayer center, a cemetery, and land on which recreational activities occur.
 6. Recreational District Six (RE6): Parcel # 15-0000-05361-001. Legal description: TRACT IN NE $\frac{1}{4}$ CONT 3A 7 154 66. This is an approximately 3-acre district that contains a church, cemetery, and land on which recreational activities occur.
 7. Recreational District Seven (RE7): A portion of Parcel # 15-0000-05403-000. Description: An approximate one-acre district within Parcel # 15-0000-05403-000, whose legal description is S $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$ & S $\frac{1}{2}$ SW $\frac{1}{4}$ 13-154-66. The southeast corner of this district is located approximately 138 feet north of the center of 51st Street NE; the east side of the district is the north-south center line of Parcel # 15-0000-05403-000; the northeast corner of the district is located approximately 225 feet north of the southeast corner; the district is approximately 33 feet wide east-to-west. This district contains a historic cemetery and land on which recreational activities occur, and is within one mile of District RE2.

Pelican Township Zoning Commissioner



seconded the motion. On roll call, the following Commissioners voted in favor of said motion:

Gerry Miller, Clark Steinhaus, Lois Steinhaus,
Tammy Tellefson, Chad Koffart . The

following Commissioners voted nay: \$

_____ . The

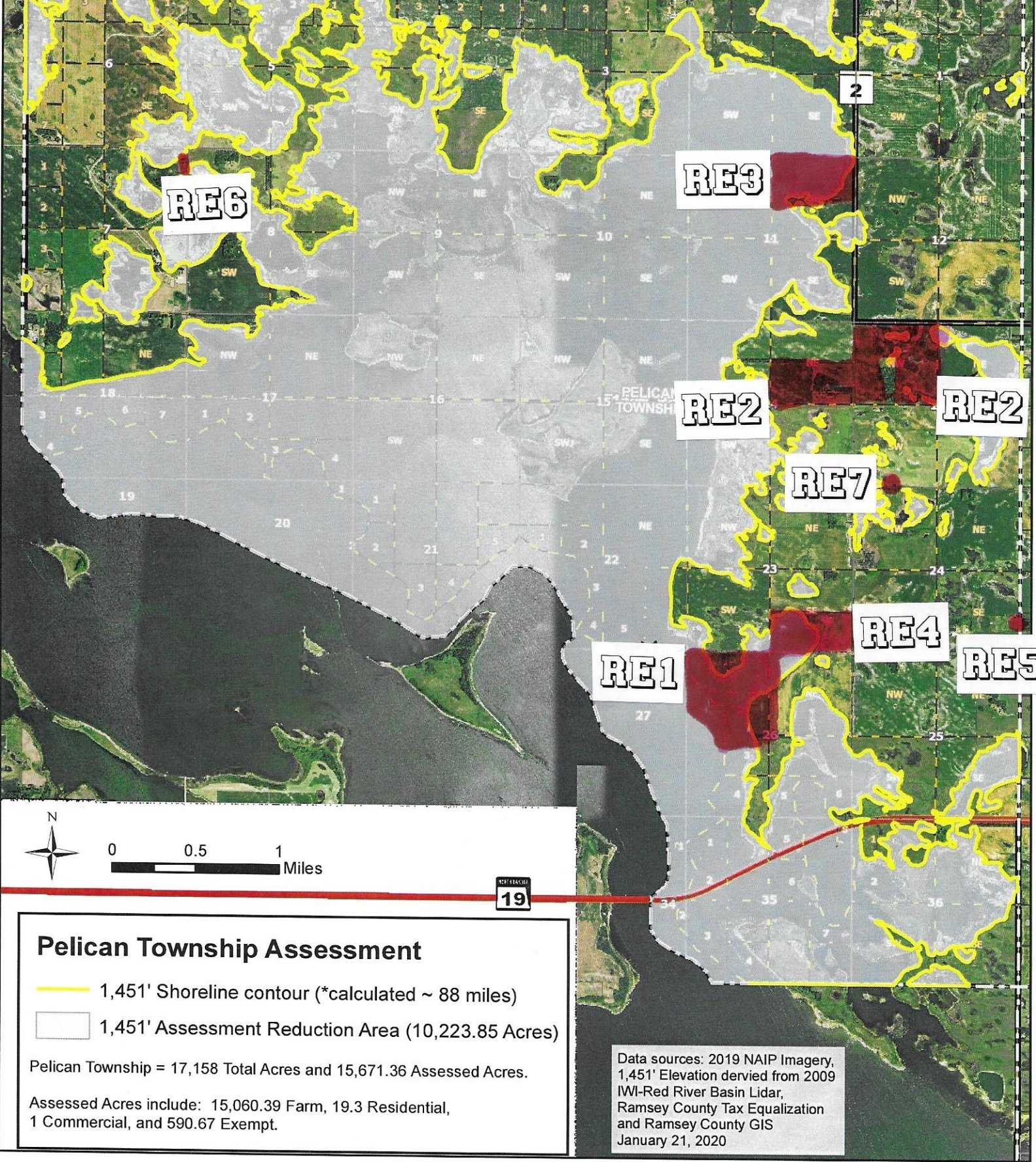
majority having vote aye, the motion was carried and the resolution was duly adopted and
submitted to the Board of Supervisors.

APPROVED:

Clark Steinhaus 3/12/21
Chairman Date

Attest:

Lois Steinhaus 3/12/21
Clerk Date



Pelican Township Assessment

- 1,451' Shoreline contour (*calculated ~ 88 miles)
- 1,451' Assessment Reduction Area (10,223.85 Acres)

Pelican Township = 17,158 Total Acres and 15,671.36 Assessed Acres.

Assessed Acres include: 15,060.39 Farm, 19.3 Residential, 1 Commercial, and 590.67 Exempt.

Data sources: 2019 NAIP Imagery,
1,451' Elevation derived from 2009
IWI-Red River Basin Lidar,
Ramsey County Tax Equalization
and Ramsey County GIS
January 21, 2020

