

ARTICLE XVIII – NON-CONFORMING USES

The purpose and intent of this article is to provide for the regulation of non-conforming buildings, structures, land and other uses and to specify those circumstances and conditions under which such non-conforming buildings, structures, land and uses shall be permitted to continue.

A. General

Any non-conforming building, structure, land or other use which existed lawfully at the time of the adoption of this ordinance and which remains non-conforming, and any such building, structure, land or other use which shall become non-conforming upon the adoption of this Ordinance subject to the regulations which follow.

1. If such non-conforming use is discontinued or terminated for a period of twelve (12) months, any future use of the building structure, land or other use shall thereafter conform to the provisions of this Ordinance.
2. When a non-conforming use or structure is damaged by fire, explosion, flood, the public enemy, act of God, or other calamity to the extent of more than sixty percent (60%) of its current local assessed value, it shall not be restored **except as to comply with the use provisions of this Ordinance.**
3. **Once a non-conforming use or structure has been changed to conform, it shall not revert back to a non-conforming use of this structure.**
4. **Repairs, alterations, or improvements may only be made to a non-conforming building or structure upon the application for and issuance of a Non-Conforming Use Permit pursuant to Article XIX Section N of this Ordinance.**
5. No building or structure shall be moved in whole or in part to any other location on the same lot or any other lot in the zone district, unless every portion of such building or structure which is moved shall conform to the zone district requirements.

ARTICLE XIX – ADMINISTRATION AND ENFORCEMENT

This section of the Ordinance shall set forth the requirements to adequately provide and develop the proper administration and enforcement of this Ordinance.

A. General

1. This Ordinance shall incorporate the any applicable Chapters of the Town of New Denmark Code of Ordinance as if fully stated herein including but not limited to, Chapter 5 – Wind Energy Ordinance; Chapter 9 – Regulation of Sexually Oriented Adult Entertainment Establishments; Chapter 15 – Driveway and Culvert Ordinance; Chapter 19 – Board of Adjustments; Chapter 23 – House and Building Numbering; Chapter 31 – Nonmetallic Mineral Extraction Regulation and Control; and Chapter 34 – Subdivision.
2. This Ordinance shall provide for the position of Building Inspector, Zoning Administrator, Zoning Board of Appeals and Town Plan Commission.
3. This section shall provide the authority and necessary requirements for issuance of Building Permits and occupancy permits, non-conforming use permits, variances, appeals, amendments, conditional uses, fees, and penalties.
4. All building inspections preformed under this section are done pursuant to Sections 101.12 and 101.65 of the Wisconsin Statutes.
5. This Ordinance adopts and incorporates, as if fully stated herein, the Uniform Building Code as provided in Chapters SPS 320-325 of the Wisconsin Administrative Code and the Commercial Building Code as provided in Chapters SPS 361-366 of the Wisconsin Administrative Code.

B. Building Inspector

There is hereby created the position of Building Inspector, who shall administer and enforce this ordinance and shall be certified by the Division of Safety & Buildings, as specified by Wisconsin Statutes, Section 101.66 (2), in the category of Uniform Dwelling Code Construction Inspector. Additionally, this or other assistant inspectors shall possess the certification categories of UDC HVAC, UDC Electrical, and UDC Plumbing.

The Town of New Denmark Building Inspector shall have the following duties:

1. Issue all Building Permits and make and maintain records thereof.
2. Issue all certificates of occupancy and make and maintain records thereof.

3. Pursuant to Section 101.65 of the Wisconsin Statutes conduct inspection of buildings, structures, and use of land to determine compliance with the terms of this Ordinance.

C. Zoning Administration

The Town of New Denmark Zoning Administrator shall have the following duties.

1. Issue all rezoning certificates and make and maintain records thereof.
2. Provide and maintain a public information bureau relative to all matters arising out of this Ordinance.
3. Forward to the Town of new Denmark Plan Commission all applications for conditional uses and for amendments to this Ordinance that are initially filed with the Office of the Zoning Administrator.
4. Forward to the Zoning Board of Appeals applications for appeals, variances, or other matters on which the Zoning Board of Appeals is required to pass under this Ordinance.
5. Maintain permanent and current records of this Ordinance including, but not limited to: all maps, amendments, conditional uses, variances, appeals and applications thereof.
6. Initiate, direct and review, from time to time, a study of the provisions of this Ordinance, and to make reports of its recommendations to the Town Plan Commission.

D. Zoning Board of Appeals

The Zoning Board of Appeals is hereby established as authorized under the provisions of the Wisconsin State Statutes, Chapter 62.23.

1. Jurisdiction

The Zoning Board of Appeals is hereby entrusted with the jurisdiction and authority to:

- a. Hear and decide appeals from any order, requirement, decision, or determination made under the provisions of this Ordinance.

- b. Hear and pass upon the application for variances from the terms provided in this Ordinance in the manner prescribed by and subject to the standards established herein.
- c. Hear and decide all matters referred to it or upon which it is required to pass under this Ordinance, as prescribed by Chapter 62.23 of the Wisconsin State Statutes.

2. Meetings and Rules

- a. All members of the Zoning Board of Appeals shall be held at the call of the Chairman of the Board, and at such times as the zoning Board of Appeals may determine.
- b. All hearings conducted shall be open to the public. Any person may appear and testify at a hearing either in person or by a duly authorized agent or attorney.
- c. Notice of the time and place of such public hearing shall be published as provided by the State Law on Planning and Zoning and applicable to the Town of New Denmark.
- d. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses.
- e. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall also keep records of its hearings and other official actions.
- f. All official proceedings regarding the action of the zoning Board of Appeals shall be a matter of public record and placed on file with the zoning Board of Appeals.
- g. The Board shall adopt its own rules and procedures, not in conflict with this ordinance or with the applicable Wisconsin State Statutes, and select or appoint such officers as it deems necessary.

3. Decisions

All decisions and findings of the zoning Board of Appeals on appeals or upon application for a variance, shall be by the concurring vote of four (4) members of the Board and after said hearing shall in all instances be final administrative decisions and shall be subject to judicial review as by law may be provided.

4. Board Membership

- a. The Zoning Board of Appeals shall consist of five (5) members appointed by the New Denmark Town Chairman and subject to judicial review as by law may be provided.
- b. The term shall be for three (3) years, except that of those first appointed; one (1) shall serve for one (1) year; and two (2) for two (2) years; and two (2) for three (3) years, but not more than one (1) member of the Town Board shall be a member of the Zoning Board of Appeals and all members shall reside in the Town.
- c. The members shall be removable by the Town Board for cause upon written charges.
- d. Vacancies shall be filled for the unexpired term of members. The Town Chairman shall appoint personnel to fill the vacancies, subject to approval by the Town Board of New Denmark.

E. Town Plan Commission

The Town Plan Commission shall be the authorizing planning agency and shall perform the duties of the Town Plan Commission as set forth in Section 62.23 of the Wisconsin State Statutes.

1. Jurisdiction

The New Denmark Town Plan Commission shall carry out the following duties under this Ordinance.

- a. Receive from the Zoning Administrator his or her recommendations as related to the effectiveness of this Ordinance and report his or her conclusions and recommendations to the new Denmark Town Board.
- b. Review all applications for non-conforming use permits, conditional uses and amendments to this ordinance and report said findings and recommendations to the Town Board in the manner designated by this ordinance for amendments and conditional uses.
- c. Hear and decide matters upon which it is required to pass under this Ordinance.

2. Meetings

- a. All meetings of the Town Plan Commission shall be held at the call of the Chairman of the Commission and at such times as the Commission may determine.
- b. The Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall also keep records of its hearings and other official actions.

3. Decisions

All actions of the Town Plan Commission shall require the vote of a majority of the members of the Commission.

4. Membership

- a. The Town Plan Commission shall consist of seven (7) members as provided by Section 60.62 of the Wisconsin State Statutes.
- b. Commission members shall consist of the Town Chairman, who shall be its presiding officer, one (1) Town Board member, five (5) citizens and two (2) alternate members
- c. The Town Plan Commission members shall be removable by the Town Board of New Denmark cause upon written charges.
- d. Vacancies shall be filled for the unexpired terms of members. The Town Chairman shall appoint personnel to fill the vacancies, subject to approval by the Town board of New Denmark.

F. Inspection Standards

1. Authority.

These regulations are adopted under the authority granted by s. 101.65, Wisconsin Statutes

2. Purpose.

The purpose of this ordinance is to promote the general health, safety and welfare and to maintain required local uniformity with the administrative and technical requirements of the Wisconsin Uniform Dwelling Code.

3. Scope.

The scope of this ordinance includes the construction and inspection of one- and two-family dwellings built since June 1, 1980.

Notwithstanding s. SPS 320.05, the scope also includes the construction and inspection of alterations and additions to one- and two-family dwellings built before June 1, 1980. Because such projects are not under state jurisdiction, petitions for variance and final appeals under ss. SPS 320.19 and 320.21, respectively, shall be decided by the municipal board of appeals. Petitions for variance shall be decided per s. SPS 320.19 (intro.) so that equivalency is maintained to the intent of the rule being petitioned. As the board of appeals approves petitions for variance, the chief inspector is granted the power to apply the results to similar circumstances by precedent.

Notwithstanding s. SPS 320.05, the scope also includes the construction and inspection of detached garages serving one- and two-family dwellings. The building structure and any heating, electrical or plumbing systems shall comply with the Uniform Dwelling Code. Petitions for variance and appeals shall be handled as in the previous paragraph.

4. The Wisconsin Uniform Dwelling Code, Chapters SPS 320-325 of the Wisconsin Administrative Code, and all amendments thereto, is adopted and incorporated by reference and shall apply to all buildings within the scope of this ordinance.

5. Penalties.

The enforcement of this section and all other laws and ordinances relating to building shall be by means of the withholding of Building Permits, imposition of forfeitures and injunctive action. Forfeitures shall be not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00) for each day of noncompliance.

6. The Building Inspector(s) shall keep a log of all inspections completed.

G. Building Permits

1. A Building Permit shall be required for any new building in excess of one hundred (100) square feet. A Building Informational Permit shall be required for all buildings or temporary buildings regardless of size to ensure compliance with applicable zoning regulations.

2. A Building Permit shall also be required if a person alters a building in excess of one thousand dollars (\$1,000.00) of value in any twelve (12) month period, or adds onto a building in excess of fifty (50) square feet in any twelve (12) month period. Restoration or repair of an installation to its previous code-compliant condition as determined by the Building Inspector is exempted from permit requirements. Residing, re-roofing, finishing of interior surfaces and installation of cabinetry shall be exempted from permit requirements. Every Building Permit shall state that the use complies with the provisions of this Ordinance.
3. Prior to the issuance of a Building Permit by the Building Inspector a Building Informational Permit shall be made in writing to the Town Board including such relevant information as required by the Town Board. The Town Board may at its discretion refer the Building Informational Permit back to the property owner for additional information required to make their determination on approval.
4. Prior to approval of a Building Informational Permit a copy of each Building Informational Permit shall be provided to the Town Zoning Administrator for review to ensure compliance with any applicable provisions of this Ordinance
5. The Town Board shall grant or deny any Building Informational Permit submitted for review within a forty-five (45) day period from the date of the submission of the Building Informational Permit. Reasons for denial of a Building Informational Permit shall be provided in writing to the individual who submitted such Building Informational Permit.
6. Upon approval of a Building Informational Permit by the Town Board, the Building Inspector shall request the submission of a uniform Building Permit application with any applicable fee. Any Building Permit applied for shall be granted or denied within a ten (10) day period from the date of application. Reason for denial of a Building Permit will be forwarded in writing by the Town Building Inspector to the applicant and the Town Board.
7. Application for a Building Permit shall be deemed to be an application for an occupancy certificate as well.
8. Each Building Permit application for business and industrial uses shall be accompanied by a plat in accordance with requirements as specified in Article XIX Section G, Plats.
9. Informational Building Permit forms and Building Permit application forms shall be made available to the public by the Town Clerk.
10. The Building Permit fees shall be determined by resolution and shall be provided by the Building Inspector. The Building Permit fee shall include thirty-five dollars (\$35.00) to be forwarded to the Wisconsin Department of Safety and

Professional Services for a UDC permit seal that shall be assigned to any new dwelling.

H. Occupancy Certificate

1. No occupancy certificate for a building, or portion thereof, constructed after the effective date of this Ordinance, shall be issued until construction has been completed and the premises inspected and certified by the Building Inspector to be in conformity with the plans and specifications upon which the Building Permit was based.
2. The occupancy certificate shall be issued or written notice shall be given to the applicant stating the reason why a certificate cannot be issued, not later than seven (7) days after the Building Inspector is notified in writing that the premises or building are ready for occupancy.
3. All occupancy permits shall be issued by the New Denmark Building Inspector.

I. Plats

1. All applications for Building Permits for business and industrial uses shall be accompanied by the following:
 - a. A plat, in duplicate, of the piece or parcel of land, lot, lots, block, blocks, or parts or portions thereof, drawn at a minimum scale of one (1) inch to one hundred (100) feet showing the actual dimension, as certified by a “registered land surveyor” or a “registered professional engineer,” the piece or parcel, lots, block, or blocks, or portions thereof, according to the registered or recorded plat of such land.
 - b. A plat in duplicate, drawn at a minimum scale of one (1) inch to one hundred (100) feet showing the ground area, height and bulk of building or structure, the building lines in relation to lot lines, the use to be made of the building, structure or land; and such other information as may be required by the Town Plan Commission and Zoning Administrator for the proper enforcement of this Ordinance.
2. Said plat material shall be submitted to the Town Plan Commission. Required plat material shall be submitted in conjunction with an application for a Building Permit.

J. Variances

1. Application

An application for a variance shall be filed with the Town Plan Commission. The application shall contain such information as the Board of Appeals by rule may require.

2. Standards for Variances

Variances may be granted by the Board of Appeals only when:

- a. Because of the particular physical surrounds, shape or topographical condition of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out.
- b. Conditions upon which a petition for a variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification.
- c. Alleged difficulty or hardship is caused by this Ordinance and has not been created by any person presently having an interest in the property.
- d. Granting of the variance shall not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- e. Proposed variance shall not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger public health and safety, or substantially diminish or impair property values within the neighborhood.

3. Authorized Variances

Variances shall be granted by the Board of Zoning Appeals in accordance with the standards established in Section H-2.

K. Appeals

1. Scope of Appeals

- a. An appeal may be taken to the Zoning Board of Appeals by any person, firm, or corporation, or by any office, department, board, or bureau

aggrieved by a decision of the Town Plan Commission or Zoning Administrator.

- b. Such an appeal shall be made within 30 days after the decision or the action complained of, by filing with the Town Plan Commission or Zoning Administrator a notice of appeal specifying the grounds thereof.
- c. The Town Plan Commission shall forthwith transmit to the Board of Appeals all of the paper constituting a record upon which the action appealed from was taken.

2. Finding on Appeals

- a. An appeal shall terminate all further proceedings on action unless the Town Plan Commission certifies to the Zoning Board of Appeals, that by reason of facts stated in the certificate a stay would, in its opinion, cause imminent peril to life and property, in which case proceedings shall not be stayed unless otherwise by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record or notice from the Town Plan Commission on due cause.
- b. The Board of Appeals shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties as provided in the state law on planning and zoning and applicable to the Town of New Denmark.
- c. The Board of Appeals shall thereafter reach its decision within 60 days from the filing of the appeal.
- d. The Zoning Board of Appeals may affirm or may reverse wholly or in part, or modify the order, requirement, decision or determination, that, in its opinion, ought to be done – and to that end, shall have all powers of the officer to whom the appeal is taken. The Town Plan Commission shall maintain records of all action of the Board of Appeals relative to appeals.

L. Amendments

1. Authority

The New Denmark Town Board may, from time to time, in the manner hereafter set forth, amend the regulations imposed in the districts or amend district boundary lines, provided that in all amendatory ordinances adopted under the authority of this section, due allowance shall be made for the intent purpose of said changes as per Article II of this Ordinance.

2. Initiation

Amendments may be proposed by any governmental body, interested person or organization.

3. Application

An application for an Amendment shall be filed with the Town Plan Commission in such form and accompanied by such detailed information as required by the Town Plan Commission. Said application shall be reviewed and a written recommendation submitted thereon to the Town Board.

4. Hearing Notice

The Town Board shall hold a public hearing on each application for an amendment. Time, place and purpose of said hearing shall be published as provided in the state law on planning and zoning and applicable to the Town of New Denmark.

5. Findings and Recommendations

- a. The Town Plan Commission shall make written findings of fact and shall submit the same together with its recommendations to the Town Board prior to the public hearing.
- b. Where the purpose and effect of the proposed amendment is to change the zoning classification of particular property, the Town Planning Commission shall make findings based upon the evidence presented to it in each specific case with respect to the following matters:
 1. Existing uses or property within the general area of the property in question.
 2. Zoning classification of property within the general area of the property in question.
 3. Suitability of the property in question to the uses permitted under the existing zoning classification.
 4. Trend of development, if any in the general area of the property in question, including changes of any, which have taken place in its present zoning classification.
 5. Adequate public facilities to accommodate development either exist or will be provided within a reasonable time.

6. Provision of public facilities to accommodate development will not place an unreasonable burden on the ability of the town to provide them.
7. The land proposed for rezoning is suitable for development and development will not resulting in undue water or air pollution, cause unreasonable soil erosion or have an unreasonably adverse effect on rare or irreplaceable natural areas.
8. The Official Town Comprehensive Plan and any of the component parts thereof.
9. The Plan Commission may recommend the adoption of an amendment changing the zoning classification of the property in question to any higher classification that that requested by the applicant.
10. The Plan Commission shall not recommend that adoption of a proposed amendment unless it finds that the adoption of such amendment is in the public interest and is not solely for the interest of the applicant.

6. Town Board action

- a. The Town Board shall not act upon a proposed amendment to this Ordinance until it shall have received a written report and recommendation from the Town Plan Commission on the proposed amendment.
- b. The Town Board may grant or deny any application for any amendment, provided however, that in the event of a written protest against any proposed amendment to this Ordinance, be duly signed and acknowledged by the owners of twenty percent (20%) or more either of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent, extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of the full Town board membership.
- c. If an application for a proposed amendment is not acted upon finally by the Town Board within ninety (90) days of the date upon which such application is received by the Town Board, it shall be deemed to have been denied.

M. Conditional Uses

1. Purpose

To place unique land use characteristics within favorable zoning districts to ease conflicts on neighboring lands and public need.

2. Initiation

Any person having a freehold interest in land, or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest or an exclusive possessory interest, and which is specifically enforceable; may file an application to use such land for one (1) or more of the conditional uses provided for in this ordinance in the zoning district in which the land is located.

3. Application

The application for a conditional use shall be filed with the New Denmark Town Planning Commission on a form so prescribed by the Town of New Denmark. The application shall be accompanied by such plans and/or data prescribed by the Town Plan Commission and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use will conform to the standards set forth in the respective districts. Such application shall be reviewed by the Town Plan Commission and a written recommendation submitted thereon to the Town Board.

4. Hearing on Application

Upon receipt in proper form of the written recommendation referred to in Section M-3, the Town Board shall hold at least one (1) public hearing on the proposed conditional use.

5. Authorization

For each application for a conditional use, the Town Plan Commission shall report to the Town 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. If an application is received by the New Denmark Town Board, it shall be deemed to have been denied.

6. Standards

No conditional use shall be recommended by the Town Plan Commission unless said Commission shall find that the conditions comply with Article II, Intent, purpose and Severability.

7. Conditions and Guarantees

Before issuing a conditional use permit, the Town Plan Commission may recommend and the Town Board shall stipulate, such conditions and restriction upon the establishment, location, construction, maintenance, and operation of the conditional use as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in Section M-6 above. In all cases in which conditional uses are granted, the Town Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

N. Non-Conforming Use Permit

1. Purpose

To allow for the issuance of building permits for permissible uses in conjunction with zoning lots which fall short of applicable zoning requirements for the designated zoning lot or are otherwise non-conforming as defined herein.

2. Limits

- a. Non-Conforming Use Permits shall only be issued for non-conforming parcels existing at or prior to the adoption of this ordinance section. Non-Conforming Use Permits may not be issued to any parcel which becomes non-conforming after adoption of the Non-Conforming Use Permit Ordinance.
- b. Non-Conforming Use Permits shall only be issued for zoning lots which include residential uses in whole or in part, including R-1 Residential, A-R Agricultural-Residential, A-1 Agricultural and AG-FP Farmland Preservation zoning districts.
- c. Non-Conforming Use Permits can only be granted for a Permitted Uses or Permitted Accessory Uses for the designated zoning district.

- d. Unless otherwise authorized under the provisions of this Zoning Code a Non-Conforming Use Permit shall not result in more than one (1) permanent single or multi family residence upon the designated parcel.
- e. Non-Conforming Use Permits may only be granted to a parcel with verified, permanent road access via public road, dedicated private drive, or recorded easement for vehicle access that is consistent with the driveway regulations contained in Chapter 15 of the Town of New Denmark Code of Ordinances, Driveway and Culvert Ordinance.
- f. Non-Conforming Use Permits may not be issued in lieu of a Conditional Use Permit for any authorized conditional uses for the designated zoning lot.
- g. The issuance of Non-Conforming Use Permits non-precedential to the application of this provision to any future request for issuance of a Non-Conforming Use Permit.

3. Initiation & Application

- a. A property owner who seeks to obtain a building permit for a permitted use or permitted accessory use for a designated zoning district which is non-conforming in some fashion from the requirements of said zoning district including but not limited to; lack of sufficient frontage, lack of required acreage, deviation from required setbacks; may seek to apply for a Non-Conforming Use Permit under this section.
- b. The application for a Non-Conforming Use Permit shall be filed with the New Denmark Town Zoning Administrator on a form so prescribed by the Town of New Denmark. The application shall be accompanied by a Building Informational Permit with such plans and/or data prescribed by the Town and shall include a statement in writing by the applicant and adequate evidence showing that the proposed non-conforming use would otherwise conform to the standards set forth in the respective districts but for the variations from such standards as requested.
- c. Such application shall be reviewed by the Town Plan Commission and a written recommendation submitted thereon to the Town Board.

4. Plan Commission Review

- a. Upon receipt of an application for Non-Conforming Use Permit and confirmation by the Zoning Administrator that the requested Non-Conforming Use Permit meets all the parameters of this section the

Zoning Administrator shall notified the chairperson of the Town Plan Commission to request a review of the application at the next Plan Commission Meeting.

- b. Upon required notice the Plan Commission shall review the application for Non-Conforming Use Permit and receive input from Town staff including the Building Inspector and Zoning Administrator and consider all of the following:
 - i. The nature of which the property is current non-conforming
 - ii. The potential impact upon the health and safety of the Town citizens, frequenters, and visitors by the non-conforming use.
 - iii. The impact of the non-conforming use on any neighboring properties and residences.
 - iv. The degree to which the property fails to conform to the existing zoning requirements.
 - v. The degree to which the requested use will fail to conform with the existing zoning requirements.
 - vi. The current zoning use in the area and the future use plan under the Town of New Denmark Comprehensive Plan.
 - vii. Any appropriate limitations or conditions which issuance of a Non-Conforming Use Permit should be contingent upon.

5. Hearing on Application

Upon receipt in proper form of the written recommendation Town Plan Commission, the Town Board shall hold at least one (1) public hearing on the proposed Non-Conforming Use Permit to take public comment on the requested permit.

6. Issuance, Denial, Referral

After public hearing the Town Board shall upon proper notice consider the Non-Conforming Use Permit in conjunction with the applicant's Building Informational Permit for approval and issuance, denial, or referral for additional information deemed necessary by the Town Board.

Upon issuance of Non-Conforming Use Permit the town Zoning Administrator shall provide to the property owner an approved Building

Informational Permit with Non-Conforming Use Permit with any appropriate conditions or limitations as determined by the Town Board.

7. Effect

Non-Conforming Use Permits properly granted shall run with the property and be transferable to subsequent owners.

If the non-conforming use under the permit is ceased for a period of more than six (6) months the Non-Conforming Use Permit shall be deemed abandoned; any future use must conform to all applicable zoning requirements.

Any request for a subsequent building permit must be accompanied with a Non-Conforming Use Permit application.

O. Fees

Any application for an Amendment, Conditional Use or Non-Conforming Use Permit, filed by or on behalf of the owner or owners of the property affected, shall be accompanied by a fee of one hundred seventy-five dollars (\$175.00). The fee for variances and appeals shall be two hundred seventy-five dollars (\$275.00). All fees shall be paid to the Town Zoning Administrator.

P. Penalties

Any building or structure hereinafter erected, moved or structurally altered or any use hereinafter established in violation of the provisions of this Ordinance by any person, firm, association, corporation (including building contractors) or his or their agent shall be deemed an unlawful structure or use.

The Town Building Inspector shall report all such violations to the Town Board, who shall bring action to enjoin the erection, moving or structural alteration of such building or the establishment of such use or to cause such building, structure or use to be vacated or removed.

Any person, firm or corporation, or agent, employee, or contractor of such, who violates, destroys, omits, neglects, or refuses to comply with, or who resists enforcement of any provision of this Ordinance; shall upon conviction thereof forfeit no less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00) together with court costs, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until payment of said forfeiture and costs of prosecution are made. Confinement to the county jail shall not exceed thirty (30) days for each offense. Each violation and each day of violation shall constitute a separate offense.

This section shall not preclude the Town of New Denmark from maintaining any appropriate action to prevent or remove a violation of this section.