

**CASTLE ROCK TOWNSHIP  
DAKOTA COUNTY, MINNESOTA  
Ordinance No. 2014-01**

**AN ORDINANCE ALLOWING THE EXPANSION OF THE  
NONCONFORMING USE LOCATED AT 26548 CHIPPENDALE AVENUE**

**WHEREAS**, Viking Auto Salvage (“Business”) is an auto salvage business that has operated in Castle Rock Township (“Town”) since approximately 1958 and is currently located on five adjoining parcels of property containing a total of approximately 35.98 acres that are located at 26548 Chippendale Avenue and legally described in the attached Exhibit A (collectively the “Property”);

**WHEREAS**, LKQ Viking Auto Salvage, an assumed name under Minnesota Statutes, Chapter 333, with its principal business address being 500 W Madison Str #2800, Chicago, IL 60661, owns the Business, and BTF, Inc., a Minnesota Business Corporation under Minnesota Statutes, Chapter 302A, with its registered office address being 3133 Butternut Circle NW, Prior Lake, MN 55372, owns the Property;

**WHEREAS**, the Property is located within both the Town’s AG Agricultural District and its RR-II Rural Residential/Platted District, as indicated on the Town’s zoning map and as designated by the Castle Rock Township Zoning Ordinance (“Zoning Ordinance”);

**WHEREAS**, an auto salvage business is not an allowed use in either the AG or RR-II District, but since the Business was lawfully established prior to the adoption of the Town’s Zoning Ordinance prohibiting the use, it is allowed by law to continue as a nonconforming use;

**WHEREAS**, the Town issued the Business a conditional use permit on September 4, 1984, and, in response to applications from the Business, subsequently issued amended conditional use permits on July 11, 1995, June 12, 2001 and May 9, 2006 to allow the expansion of the Business (collectively the “Prior CUPs”);

**WHEREAS**, the Business desires to again expand its operations and it has requested the Town once again approve its expansion plans;

**WHEREAS**, Minnesota Statutes, section 462.357, subdivision 1e(b) indicates the Town may allow an expansion of a nonconforming use by ordinance, and Section 5.03 of the Zoning Ordinance allows the expansion of a nonconforming use in accordance with the provisions of the Zoning Ordinance; and

**WHEREAS**, the Town Board hereby finds and determines as follows with respect to this matter:

- a. The Business has a long history in its present location and its operations have not generated any significant complaints;
- b. The past expansions of the Business have mostly involved constructing additional buildings to move more of its operations inside;

- c. The current expansion proposal is for the Business to: Demolish two rental residences within the business property, create additional parking area in that space, adding fencing to match existing as closely as possible. Build one additional insulated cold storage warehouse, approximately 50,000 square feet at rear of the area where the rental houses were located with a connecting passageway to the existing cold storage warehouse (“Current Expansion”);
- d. The proposed new building is located in portions of three of the parcels that make up the Property and, therefore, those parcels need to be combined in order to comply with the Zoning Ordinance;
- e. The Town is aware of drainage issues that currently exist on the Property and that affect neighboring properties. Given the proposed expansion, the Town Board determines it is appropriate to require the Business to address the current drainage issues as well as any additional drainage issues being created by the Current Expansion;
- f. The Town determines that addressing the Current Expansion by a separate ordinance that repeals the Previous CUPs and sets out a process for addressing any proposed future expansion is more desirable than attempting to rezone the Property, to amend the Zoning Ordinance to expressly allow auto salvage businesses in one or more of the Town’s zoning districts, or to attempt to issue a variance for a use not allowed in districts in which the Business is located;
- g. The Town Board determines the Current Expansion can occur in a manner that is consistent with the Zoning Ordinance given its status as a lawful nonconforming use; and
- h. On June 3, 2014, after due notice having been given, the Castle Rock Planning Commission held a public hearing on the proposed Current Expansion and this Ordinance and it acted to forward the request and the Ordinance to the Town Board with a recommendation that it adopt the Ordinance to approve the proposed Current Expansion with certain conditions.

**NOW, THEREFORE**, based on the record of this matter, and the findings and determinations contained herein, the Board of Supervisors of the Town of Castle Rock ordains:

- 1. Prior CUPs Repealed. The Prior CUPs the Town issued for the Property are hereby repealed. The expansions allowed pursuant to the Prior CUPs are hereby approved and ratified, and the Business is allowed to continue to operate, including the previously approved expansions, pursuant to the provisions of this Ordinance.
- 2. Current Expansion. The proposed Current Expansion of the Business is hereby approved provided the Business complies with, and remains in compliance with, all of the following conditions and limitations which shall apply to the Current Expansion and to the ongoing operations of the Business on the Property:
  - (a) The Current Expansion must be constructed in conformance with all applicable provisions of the Zoning Ordinance and in accordance with the plans submitted to the Town dated April 2014.
  - (b) All building permits and other permits and permissions required to construct the Current Expansion must be obtained.

- (c) The three parcels on which the new building is to be located shall be combined and recorded in the office of the County Recorder within 30 days from the date of this Ordinance.
- (d) The hours of operation for the Business shall be limited to 7:00 a.m. to 6:00 p.m. or normal business hours.
- (e) The Business shall be required to develop and implement such drainage plans as are needed to effectively address the current drainage issues occurring on the Property and any additional drainage issues anticipated from the Current Expansion. The Business shall develop and submit a proposed drainage plan to the Town for approval by no later than August 1, 2014. The Business shall be required to implement the approved drainage plan and complete the work called for in the plan before the end of the 2014 construction season. The Business shall provide the Town written notice of its completion of the drainage work required in the approved plan within 10 days of completion. If the Business seeks approval for any additional expansions in the future, it will be required to develop and submit with its application for expansion a proposed drainage plan that identifies any additional drainage ponds and other drainage facilities and work needed to adequately address drainage on the Property.
- (f) The Business shall keep the outdoor automobile storage area of the operation effectively screened from the neighboring properties. The current vegetative screen is sufficient, provided it is maintained and replaced as needed.
- (g) The Business shall comply with all applicable federal, state, and local laws, rules, legislation, and ordinance in constructing the Current Expansion and in the ongoing operations of the Business.
- (h) Subject to the notice and cure provisions of Section 4 of this Ordinance, failure to comply with any of the requirements of this Ordinance, or of any applicable federal, state, or local laws, rules, legislation, and ordinances, may result in the revocation of this Ordinance by the Town and, if revoked, the Business shall be required to cease operations.
- (i) A failure by the Town to take action with respect to any violation of any condition, covenant, or term of this Ordinance shall not be deemed to be a waiver of, or in any way, limit the Town's authority to enforce, such condition, covenant, or term or any subsequent violation of the same or any other condition, covenant, or term.
- (j) The Town, its officers, and consultants may enter the Property, after providing reasonable notice to the Business, at all reasonable times to conduct inspections for the purpose of ensuring compliance with this Ordinance and the Zoning Ordinance. Prior notice to inspect the Property is not required in the event of an emergency.

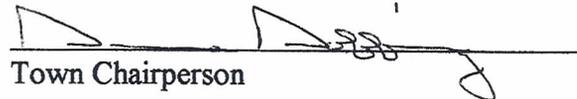
- (k) This Ordinance and its conditions are binding on the Business, its successors and assigns, shall run with the Property, and shall not in any way be affected by the subsequent sale, lease, or other change from current ownership. The obligations of the Business under this Ordinance shall also be the obligations of the current and any subsequent owners of the Property during their respective periods of ownership.
3. Future Expansions. This Ordinance approves the Current Expansion and approves and ratifies the past expansions of the Business. The Business may request, and the Town Board may approve, future expansions of the Business on the Property in accordance with the procedures contained in this Section without having to amend this Ordinance. However, nothing herein shall be construed as limiting the Town Board's authority to amend this Ordinance. The term "expansion" shall, for the purposes of this Ordinance, include, but is not limited to, the construction or expansion of any buildings or other structures on the Property, expanding the Business onto parcels that currently do not constitute the Property, expansion of the outdoor automobile storage area, or the intensification of the Business operation in any way that noticeably increases the traffic, noise, vibration or light generated by the Business. The procedure for considering additional expansion requests shall be as follows:
- (a) The Business shall submit an application to the Town requesting the expansion, together with an application fee and escrow in the amounts required for a conditional use permit application. The application shall contain an explanation of the proposed expansion, include detailed plans for the expansion, and otherwise contain the information required for a conditional use permit application.
  - (b) The Town shall forward a complete application to the Planning Commission to conduct a public hearing on the proposed expansion.
  - (c) At the conclusion of the public hearing the Planning Commission shall make and forward its recommendation regarding the proposed expansion to the Town Board. The recommendation may include any proposed findings and conditions the Planning Commission may wish to offer.
  - (d) The Town Board shall review the application, the Planning Commission's recommendations, and act on the proposed expansion by resolution. If it approves the expansion, the Town Board may impose conditions on its approval. The Business shall be required to comply with the conditions imposed on the approval as well as the requirements contained in this Ordinance. The Town shall record, at the Business's expense, any such approval resolutions in the office of the County Recorder.
4. Compliance and Enforcement. As a nonconforming use, the law does not allow the Business to expand except upon the Town Board's approval. The Business understands and agrees the approval for the Current Expansion is conditioned upon, and the Business is required to comply with, the requirements and conditions of this Ordinance. The

Business further agrees that if it is found by the Town Board, after written notice and a public hearing, to be in violation of this Ordinance and it fails to correct the violation within 30 days, or such other longer reasonable period as established by the Town, the Town Board may act to repeal this Ordinance. The Business agrees that if the Board does repeal this Ordinance based on a violation of its provisions it will be required to cease its operations and to remove its auto salvage business from the Property. The Business affirmatively states that it understands its rights as a nonconforming use and agrees to waive them if the Town does repeal this Ordinance based on a violation of its provisions. The continued use of the Property for the Business and the construction of the Current Expansion shall be deemed an agreement: (a) to the conditions contained in this Ordinance; (b) that the Business's nonconforming rights are subject to the terms and conditions of this Ordinance and that such rights shall be deemed waived if this Ordinance is repealed based on a violation of its provisions; and (c) to cease the auto salvage business and remove it from the Property upon such repeal of this Ordinance.

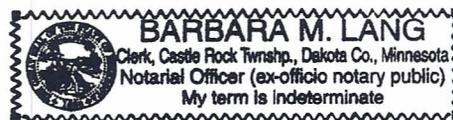
5. Scope. This Ordinance only applies to the Property and applies in addition to all applicable provisions of the Zoning Ordinance. This Ordinance is adopted pursuant to the Town's authority in Minnesota Statutes, section 462.357, subdivision 1e(b) and shall allow the expansion of the nonconforming use on the Property notwithstanding any provision to the contrary in the Zoning Ordinance.
6. Recording. The Town will, at the Business's expense, record this Ordinance in the office of the County Recorder.
7. Incorporation. The recitals contained herein, the exhibits attached hereto, and any subsequent resolutions adopted by the Town Board to allow further expansions are incorporated herein and made part of this Ordinance.
8. Severability. If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction the remainder of this Ordinance shall not be affected thereby.
9. Effective Date. This Ordinance shall be effective as of the first day of publication after adoption.

Adopted this 10<sup>th</sup> day of June, 2014.

**BY THE TOWN BOARD**

  
Town Chairperson

Attest: Barbara M. Lang  
Town Clerk





**EXHIBIT A**  
Legal Description of the Property

PID # 07-02900-52-010

N 1/4 OF NW 1/4 OF SW 1/4 EX E 160 FT OF W 380 FT OF S 120 FT

PID # 07-02900-51-010

E 160 FT OF W 380 FT OF S 120 FT OF N 1/4 OF NW 1/4 OF SW 1/4

PID # 07-02900-50-012

N 661 FT OF W 1/2 OF SW 1/4 EX N 1/4 OF NW 1/4 OF SW 1/4 SUBJ TO HGWY 3

PID # 07-02900-50-013

S 331.5 FT OF N 992.5 FT OF W 1/2 OF SW 1/4 SUBJ TO HGWY 3

PID # 07-02900-50-014

S 199.5 FT OF N 1192 FT OF W 1/2 OF SW 1/4 SUBJ TO HGWY 3