

Helga Township Land Use Ordinance

Pursuant to Sections 462.351 through 462.365 of the Minnesota Statutes Annotated, the Town Board of Helga Township does ordain and establish as follows:

ARTICLE I

PURPOSE

The purpose of this Ordinance is to ensure, promote, and protect the health, safety, and general welfare of present and future inhabitants of Helga Township by securing the most appropriate use of the land, by preventing undesirable uses of the land, by preventing undue concentration of the population, by providing for the orderly development of undeveloped areas, by encouraging and facilitating adequate and economical provision of transportation, water supply, sewage disposal, and other public facilities, and by otherwise protecting and preserving the attractive, stable, and wholesome environment of Helga Township.

ARTICLE II

DEFINITIONS

For the purpose of this Ordinance, the following terms shall have the meaning hereinafter indicated in this Article unless specifically stated otherwise. Words used in the present tense shall include the future; words in the future shall include the present; words used in the singular shall include the plural; words used in the plural shall include the singular; the word shall is mandatory and not discretionary; the word persons includes any individual, firm, association, syndicate, partnership, joint enterprise, corporation, trust, or any other legal entity.

- 1) **Accessory Buildings and Use:** A subordinate building or use which is incidental to and customarily connected with the principal building or use and which is located on the same lot with such principal building or use.
- 2) **Apartment:** A part of a building consisting of a room or suite of rooms for rental purposes, containing sleeping, cooking, eating, living and sanitation facilities and intended, designed or used as a residence by an individual or a single family.
- 3) **Apartment Building:** A building containing five or more apartments.
- 4) **Building:** Any structure having a roof supported by columns or walls built for the support, shelter or enclosure of persons, animals, chattels or property of any kind, including a mobile home.
- 5) **Commercial use:** The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.
- 6) **Condominium:** A form of individual ownership within a multi-family building with owners responsible for maintenance and repairs. Each dwelling unit is owned outright by its occupant, and each occupant owns a share of the land and other common property of the building.

A000312241

OFFICE OF THE COUNTY RECORDER
HUBBARD COUNTY, MINNESOTA

CERTIFIED, FILED, AND/OR
RECORDED ON
10/26/2005 10:07AM
AS DOC #: A000312241

NICOLE K. LUETH
HUBBARD COUNTY RECORDER

BY 026
DEPUTY

PAGES: 20

- 7) Duplex, triplex or quadplex: A dwelling structure having two, three or four dwelling units respectively, for rental purposes, being attached by common walls and/or floors each unit having separate sleeping, cooking, eating, living and sanitation facilities.
- 8) Dwelling: Any building or portion thereof which is designed and/or used for human habitation.
- 9) Family: One or more persons related by blood, marriage or adoption occupying a dwelling unit as a single housekeeping unit. A family may include more than two persons not related by blood, marriage or adoption as defined by Minnesota Statute Section 462.357.
- 10) Farm: An area which is used for the growing and storage of the usual farm products and the raising of the usual farm animals, containing not less than ten acres. The term farming includes the operating of such an area for one or more of the above uses, including dairy farms, with necessary accessory uses, provided that the operation of such accessory uses shall be secondary to the normal farming activities.
- 11) Green Space: The definition of Green Space includes the following:
 1. Dwelling units or sites, road rights-of-way, land covered by road surfaces, parking areas, and structures are considered developed areas and shall not be included in the computation of green space;
 2. Green space includes those areas with physical characteristics unsuitable for development in their natural state and areas containing significant historic sites or unplatted cemeteries;
 3. Green space may include outdoor recreational facilities for use by owners and/or residents of dwelling units and their guests;
 4. Green space may include sewage treatment systems provided the use of the space is restricted to avoid adverse impacts on such systems;
 5. The appearance of green space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants.
- 12) Home occupation: Any occupation or profession carried on by a member of a family residing on the premises provided that:
 - a) No person is regularly employed for commercial purposes other than a member of the immediate family residing on the premises.
 - b) No more than 25% of the total floor area of the dwelling is used for said home occupation.
 - c) No mechanical equipment is used except as is compatible with and permissible for household purposes or for a home workshop.
 - d) Sales of goods or merchandise are limited to that which is manufactured by the practitioner of the home occupation or is a result of agricultural use of the land.
- 13) Lot: A portion of a subdivision or other parcel of land, intended as a unit for transfer of ownership, for development, for occupancy by one main building together with the accessory buildings or for any other use permitted by this Ordinance.
- 14) Lot of Record: Any lot which is one (1) unit of a recorded plat designated by auditor's plat, subdivision plat, or other accepted means and separated from other parcels or portions of said description for the purpose of sale, lease or separation thereof that has been recorded in the Office of the Hubbard County Recorder prior to April 18, 1979.

- 15) Non-conforming use: A use of land, building or structure lawfully permitted when this Ordinance or any amendment thereto is adopted which does not comply in whole or in part with the provisions of this Ordinance or any amendment made thereto shall be a non-conforming use.
- 16) Owner: Any person, individual, firm, association, syndicate, co-partnership, joint venture, corporation, trust or any other legal entity having a proprietary interest in the land subject to this Ordinance.
- 17) Premises: A lot, together with all buildings and structures thereon.
- 18) Right-of-way: Land used as an easement, road, or street.
- 19) Sign: An identification, description, illustration, or devise which is affixed to or represented directly or indirectly upon a building, structure, or land, and which directs attention to a product, place, activity, person, institution, or business.
- 20) Setback: a horizontal line from the nearest part of the structure to the appropriate boundary line.
- 21) Townhouse: Single family dwelling units attached to each other by means of common walls and/or floors, where each unit has its own outside entrance.
- 22) Yard: An open space on the same lot with a building unoccupied and unobstructed by any portion of the structure from the ground upward, except as otherwise provided in this Ordinance.

ARTICLE III

ESTABLISHMENT OF DISTRICTS

For the purposes of carrying out the provisions of this Ordinance, Helga Township shall have districts designated as Agricultural/Rural Residential and Commercial.

SECTION 1. Land Use Map

An official land use map, on file at the Helga Town Hall, is hereby adopted by reference. A copy of this map, showing the location of all districts within Helga Township, is displayed and can be viewed at the Helga Town Hall.

SECTION 2. Interpretation of Land Use Map

Regardless of the existence of purported copies of the Official Land Use Map which may from time to time be made or published, the Official Land Use Map, which shall be located in the office of the Helga Town Clerk, shall be the final authority as the current district status of land and water areas, buildings and other structures in the Township.

A. District Boundaries: The location and boundaries of the districts established by this Ordinance are set forth on the Official Land Use Map. District boundary lines as indicated on the Land Use Map follow lot lines, property lines, right-of-way or center lines of streets, right-of-way or center lines of

streets projected, the Township limit lines, shorelines, all as they exist upon the effective date of this Ordinance. If said boundary lines do not follow any of the above, the district boundary lines are established as drawn on the Official Land Use Map.

B. Vacated Ways: Whenever any street or other public way is vacated in the manner authorized by law, the district adjoining each side of such street or public way shall be automatically extended to the center of such vacation and all included in the vacation shall then and henceforth be subject to all regulations of the extended districts.

C. Appeals: Appeals concerning the exact location of a district boundary line shall be heard by the Board of Adjustment.

ARTICLE IV

DISTRICT REQUIREMENTS

SECTION 1: AGRICULTURAL/RURAL RESIDENTIAL DISTRICT

A. Purpose and Intent:

The Agricultural/Rural Residential District is established to preserve those areas which are developed at a density and character compatible with agricultural uses to maintain the rural character of the district. It is also the intention of this Ordinance to minimize conflicts between incompatible uses by directing non-agriculture residential uses to other districts within the Township.

B. Allowed Uses

The following uses are allowed in the Agricultural/Rural Residential District without a conditional use permit:

1. Pasture and croplands, including the growth, harvest and sale of produce grown on-site, but specifically excluding the processing of or sale of processed produce.
2. Forestry, including the growth, harvest and sale of trees grown on-site, but specifically excluding the processing of forest products grown off-site.
3. Single family residential;
4. Home Occupations;
5. State licensed residential facilities serving six or fewer persons;
6. Accessory uses and structures to the above principal uses.

C. Conditional Uses

The following uses may be allowed with the issuance of a conditional use permit by the Helga Township Board following the procedures outlined in Article VIII of this Ordinance.

SECTION 2: COMMERCIAL DISTRICT

A. Purpose and Intent

The Commercial District is established to provide areas for commercial and industrial activities, and for residential uses located by choice in commercial/industrial locations.

B. Allowed Uses

The following uses are allowed in the Commercial District without a conditional use permit:

1. Single family residential (Note: Single family use must conform to Rural Residential standards unless it is secondary to or in conjunction with a business).
2. Multifamily housing.
3. Commercial retail such as grocery, hardware, drug, clothing, furniture stores, greenhouses, road-side stands and restaurants.
4. Personal service establishments such as laundry, laundry mats, barber, shoe repair, photography studios, private schools.
5. Repair services such as radio and television repair shops.
6. Professional services such as medical/dental clinics, attorneys, architects, engineers, surveyors, funeral homes, banks and accountant offices.
7. Public and semi-public buildings such as fire stations, town halls.
8. Auto and Farm machinery repair facilities.
9. Service stations.
10. Wholesale and warehouse operations.
11. Stone and monument sales.
12. Veterinary clinics.
13. Telecommunications towers.
14. Hotels, motels, bed and breakfast.
15. Motor vehicle, recreational vehicle and boat sales.
16. Lumber yards and construction material sales.
17. Landscape and gardening equipment sales.
18. Tree farms.
19. Churches.
20. Mini storage.
21. Adult and child care facilities.
22. Accessory uses and structures to the above principal uses.
23. All signs in accordance with the provisions of this Ordinance.

C. Conditional Uses

The following uses may be allowed with the issuance of a conditional use permit by the Helga Township Board following the procedures outlined in Article VIII of this Ordinance.

1. Strip malls.
2. Office complexes.
3. Other commercial uses not listed above.
4. Illuminated and/or reflective signs.

ARTICLE V

GENERAL REGULATIONS/PERFORMANCE STANDARDS

No land, structure or part thereof may be used, constructed, reconstructed, altered, maintained or occupied except in conformity with the provisions of this Ordinance.

Lot Size: The minimum deeded lot size, inclusive of any right-of-ways, for establishing a single family dwelling in Helga Township shall be:

Agricultural/Rural Residential	5 acres
Commercial	2.5 acres

Lot Width: Property must be large enough to inscribe a 300 foot diameter, non-overlapping circle, per dwelling unit, with the exception of non-residential lots in the Commercial District, which shall have a minimum lot width of 165 feet to facilitate splitting the land up evenly.

Lot Frontage Single Family Homes: 75 foot minimum road frontage at any driveway entrance with a 15 foot setback from side of driveway surface to nearest property line, with the exception of access to landlocked parcels which will be dealt with by state statute. The front of a lot is defined as the side with the road access.

Lot Frontage Multifamily Housing: 100 foot minimum road frontage at any driveway entrance with a 15 foot minimum setback from side of driveway surface to nearest property line. The front of a lot is defined as the side with the road access.

Building Height: A maximum building height of 35 feet is allowed.

Setback Provisions: All structures, except those specifically exempted by the provisions of this Ordinance shall meet the setback requirements prescribed in this section. All setbacks shall be measured from the appropriate lot line deeded and/or recorded, road right-of-way, easement lines or ingress/egress.

District	Front Setback	Rear Setback	Side Setback
Agricultural/Rural Residential	50 feet	50 feet	50 feet
Commercial	50 feet	30 feet	30 feet

Parking:

Parking Lot setback is 15 feet from property line.

Parking area. One square foot parking area for each square foot of building space open to the public but not less than 900 square feet, plus one space per each employee working the shift requiring the most employees. No parking on public roads will be allowed. Adequate parking for deliveries must be provided.

1. Churches: Any church erected on a new site shall provide one off street parking space upon the lot or within 200 feet thereof for every five persons for which seating is provided in the main auditorium.
2. Schools: Any school erected on a new site shall provide one off street parking space upon the lot for every three persons for which seating is provided in the auditorium or other place of general assembly.

Multifamily Housing: The following regulations/requirements shall apply to all future multifamily development in Helga Township:

1. Minimum lot size of 5 acres inclusive of road right-of-way per dwelling unit in the Agricultural/Rural Residential District or 2.5 acres inclusive of road right-of-way in the Commercial District.
2. 50% green space.

3. 35 foot maximum dwelling height from highest natural existing grade at building location.
4. Two parking spaces per dwelling unit, not including garage.
5. Lighting must not interfere with traffic and/or neighbors.
6. Property must be large enough to inscribe a 300 foot, non-overlapping circle for each dwelling unit.
7. Separate parcels must be combined into one contiguous deeded tax parcel.
8. All multifamily housing must meet or exceed state and local building codes.
9. Each building must have public road access.
10. Property owners are responsible for building upkeep and maintenance.
11. An onsite sewage treatment system permit must be obtained from Hubbard County before a building permit is issued.
12. All residential structures must maintain a minimum setback of 50 feet from each other.

Sanitary Specifications: EVERY DWELLING SHALL HAVE A SEWAGE DISPOSAL SYSTEM THAT MEETS ALL HUBBARD COUNTY SPECIFICATIONS.

Essential Services: Essential services, including, but not limited to power lines, telephone lines, sewer, water, gas, and cable TV. shall be permitted as authorized and regulated by law and other ordinances, it being the intention hereof to except such essential services from the application of this Ordinance except as this Ordinance specifically applies to said services. However, to the extent technologically feasible, said essential services shall be underground so as to eliminate overhead wires, poles, and other unsightly structures and equipment.

Structures under Construction: Any proposed structures upon which a significant amount of construction, which has been done prior to the effective date of this Ordinance, may be completed. However, clearing land or site preparation shall not be considered to be significant amount of construction.

Excavation of Mineral Materials: The use of land for the excavation or removal of mineral materials or the excavation or removal of top soil, sand or gravel is not permitted within the township unless done pursuant to a conditional use permit. As a condition of granting the conditional use permit, the township may impose appropriate standards for reclamation of the land subject to the excavation so as to ensure its restoration to its original condition insofar as possible after removal of the minerals. To ensure this restoration, the township may require a performance bond, require the construction of roads and other conditions as it deems appropriate.

Fences: No fence, wall, structure, planting or obstruction shall be permitted over three feet in height within 20 feet of a right-of-way intersection so as to ensure visibility for vehicles using said intersection.

Sanitary Landfill: No sanitary landfill shall be established or operated without a conditional use permit issued by the Township.

Temporary Signs: Temporary signs advertising the sale, rent, or lease of property are allowed. Temporary signs shall be no more than 10 feet in height as measured from the plane of the road. Temporary signs must be removed within 10 days of completion of transaction.

Signs and Outdoor Advertising for Onsite Commercial Businesses:

Double sided signs with a maximum side separation of ninety (90) degrees are allowed. Freestanding signs with a maximum size of 32 square feet per side are allowed. No flashing lights or lights directed at other properties or water are allowed. No animated or moving parts are allowed. Only one freestanding sign per deeded tax parcel allowed. Business name is allowed on building face

with the maximum area of 10% of building face not to exceed 32 square feet. No off-site advertising. (Sign permits are also required by Hubbard County.)

Area Regulations: All buildings shall be set back a distance of not less than 50 feet from the edge of right-of-way as the same is defined in this Ordinance. Where lots have double frontage, the required set back shall be provided on both roads. All buildings shall be set back a distance of not less than 30 feet from the side and rear lines of the lot. Temporary shelters for persons waiting for a bus or similar uses shall be excepted from this provision if constructed and located so as to not interfere with snow plowing or road maintenance.

Building Permit Required: A building permit shall be required prior to the construction of any 101 sq. ft. or larger building with roof or any 101 sq. ft. or larger addition to any existing building. All decks, buildings or additions shall meet minimum setback requirements.

ARTICLE VI

SUBDIVISION OF LANDS

Subdivision of Lands: The subdivision of lands shall not be allowed within the Township unless the same is done in accordance with the laws of the State of Minnesota, the ordinances of Hubbard County and this Ordinance.

No road laid out in the Township shall be dedicated by the developer or private builder to the Township, but all roads shall remain private, until established as public roads pursuant to the petitioning procedures of Chapter 164 of the Minnesota Statutes Annotated.

The developer or private builder shall correct all construction which does not comply with the specifications and requirements set forth or incorporated herein within 45 days of receipt of notice from the Township informing the developer or private builder of said noncompliance and the necessary corrections which will effect compliance.

The developer or private builder shall warrant that said roads shall be established and constructed in accordance with the specifications and requirements set forth or incorporated herein, said warranty to terminate two years from the date said roads are deemed to be established. The subdivider shall complete the establishment and construction of said roads so as to provide access to any lots which are sold by the subdivider within twelve months of said sale and the subdivider shall complete establishment and construction of all roads laid out in said plat within 24 months after the sale of 50% of the lots in the plat has been effected, however, notwithstanding the previous provisions of this paragraph relating to completion dates, all roads shall be established and constructed in accordance with this ordinance within 36 months of the date of final approval of the plat by Hubbard County without regard to the number of lots which have been sold unless said time is extended pursuant to this Ordinance.

In the event that the Township deems it necessary to obtain security for establishment and construction of said roads in accordance, the Township and subdivider shall execute and incorporate into the agreement referred to above an appropriate agreement providing for the giving and releasing of security for performance by the subdivider. Said security agreement shall be in the nature of a performance bond, a cash deposit, a mortgage encumbrance on an agreed number of lots in the plat running in favor of the Township which will give the Township adequate collateral to insure construction of the roads. The agreements referred to above shall be recorded with the Hubbard County Recorder.

ARTICLE VII

NON-CONFORMING USES

SECTION 1: Non-Conforming Use Provision Relating to Lots Not Meeting the Applicable Regulations for the Township:

Use of a lot which would not be subject to the other provisions of this article relating to non-conforming uses because of the non-existence of building, structures, or actual uses on said lot on the effective date of this Ordinance which do not meet the regulations applicable in the Township shall not be permitted without first obtaining a variance pursuant to the general variance procedures of this Ordinance.

SECTION 2: Non-conforming use provisions relating to existing uses, buildings and structures. The following provisions shall be applicable to any non-conforming significant and actual use of land, buildings or structures in the Township.

- 1) **Buildings:** The lawful use of a building, structure or land substantially undertaken and existing at the time of adoption of this Ordinance may be continued although such use does not conform with the Township use provisions.
- 2) **Non-conforming use extension:** A non-conforming use may be extended throughout the building or structure provided no structural alterations, changes or additions are made therein except those required by law or ordinance or such as may be necessary to secure or ensure the continued advantageous use of the building during its natural life.
- 3) **Non-conforming use, damaged:** A non-conforming building or structure damaged or destroyed by any cause whatsoever may be restored, reconstructed, and used as before, provided that such restoration is completed within 24 months of such happening, that it be built of like or similar materials, and that the building is not made larger than its original floor space, except that enlargement of the floor space may be permitted where necessary to secure or insure the advantageous use of the structure.
- 4) **Land:** The non-conforming use of land substantially undertaken where a structure thereon is not so employed existing at the time of the adoption of this Ordinance may be continued provided that the non-conforming use of land shall not in any way be expanded or extended either on the same or adjoining property and provided that if the non-conforming use of land existing at the time of the adoption of this Ordinance is hereafter discontinued or changed for a period of two years, then the future use of such land shall be in conformity with the provisions of this Ordinance.
- 5) **Change:** Whenever a non-conforming use has been changed to a conforming use or to a use permitted by a conditional use permit, it shall not thereafter be changed to a non-conforming use.
- 6) **Discontinuance:** In the event that a non-conforming use of any building or land be discontinued for a period of two years, the use of the same shall conform thereafter to the uses permitted.
- 7) **Change of Ownership:** In the event that a non-conforming building or land is conveyed to another person, such non-conforming use is extended to the new owner of

the property provided that uses and time requirements of non-conforming uses shall be determined as if the new owner had possession of the property continually from the date of enactment of this Ordinance.

SECTION 3: Non-conforming use of signs: Notwithstanding any other provision of this Ordinance as to non-conforming uses, continued use of signs, which, under the provisions of this Ordinance would require a conditional use permit or would be prohibited, but which are in existence at the time of the passage of this Ordinance shall not be permitted in the Township for more than one year after passage of this Ordinance without obtaining a conditional use permit. Making of application for such conditional use permit within said time shall extend the right to continue use of the sign until the application for a conditional use permit is finally acted upon hereunder. The administrative authority may impose all conditions which it deems appropriate to eliminate the objectionable characteristics of the sign in question as a condition of the conditional use permit. Said conditions may include, but not be limited to size, location, coloring, and lighting.

SECTION 4: Non-conforming use provisions relating to sanitary landfills and junk yards: Notwithstanding any other provisions of this Ordinance relating to non-conforming uses, the continued operation of junk yards or sanitary landfills existing at the time of adoption of this Ordinance shall not be permitted in the Township for more than one year after passage of this Ordinance without obtaining a conditional use permit. Making application for said permit within said time shall extend the right to continue use of the facility until the application for a conditional use permit is finally acted upon hereunder. The administrative authority may impose all conditions which it deems appropriate to eliminate the objectionable characteristic of said sanitary landfill or junkyard as conditions on the granting of said conditional use permit. Said conditions may include, but shall not be limited to, provision for fencing, vegetative screening, elimination of accumulated refuse or other materials, elimination of attractive nuisances, and prevention of expansion of the existing use.

SECTION 5: To the extent that the general provisions relating to non-conforming uses are applicable to signs and junk yards, the same shall be applicable in addition to the preceding two sections of this article.

ARTICLE VIII

ADMINISTRATION

SECTION 1: A Planning and Zoning Commission is hereby established. The Commission shall consist of five (5) members. The members of this commission shall constitute the existing members of the Land Use Committee, except that the Helga Town Board Supervisor shall be replaced with another fee holder within Helga Township by appointment of the Helga Town Board. The initial terms of the Planning and Zoning Commission shall be as follows: One member for a term of one year, two members for a term of two years, two members for a term of three years. The Planning and Zoning Commissioners shall be elected by ballot in the same manner the township clerk and supervisors are elected. The quorum for the Planning and Zoning Commission to transact business shall be three members.

A. The Planning and Zoning Commission shall elect a Chair and Vice-chair from among its members. It shall adopt rules for the transaction of business and shall keep a permanent public record of its proceedings, findings, and determinations.

B. The Planning and Zoning Commission shall:

1. Assist the Town Board in the formation of goals, policies and programs for the future development of Helga Township.
2. Assist the Town Board in the preparation of development controls designed to promote development consistent with adopted goals and policies.
3. Review the applications for conditional use permits and conduct public hearings in accordance with the provisions of this Ordinance, and make decisions accordingly.
4. Review application for zoning amendments, conduct public hearings in accordance with the provisions of this Ordinance, and make recommendations to the Town Board.
5. Review subdivision proposals for compliance with the provisions of this Ordinance, conduct public hearings, and forward final plat recommendations to the Town Board.
6. Any other such duties as required or requested by the Town Board to further goals and policies in furtherance of the intent of this Ordinance.

C. Any vacancy shall be filled by appointment by the Town Board until the next annual Township election. The balance of the remaining term shall be filled at the next election.

D. Upon notice and hearing a member of the Planning and Zoning Commission may be removed for incompetence, misconduct in office, or absenteeism, including but not limited to, absence from three consecutive meetings without reasonable excuse.

E. The Town Clerk or his/her deputy appointed by the Town Board shall be the clerk for the Planning and Zoning Commission. The Town Clerk shall perform the following for the Planning and Zoning Commission: filing, service, notice and other necessary duties when the Commission is required to take such action under this Ordinance.

SECTION 2: A Board of Adjustment is hereby established in accordance with Minnesota law. The Board of Adjustment consists of the Town Board of Supervisors.

A. The Board of Adjustment shall elect a Chairperson and a Vice Chairperson from among its members. It shall adopt rules, for the transaction of its business and shall keep a permanent public record of its proceedings, findings and determinations.

B. The meetings of the Board of Adjustment shall be held as specified in the rules, and at other such times as the Chairperson of the Board of Adjustment shall deem necessary and appropriate.

C. The Board of Adjustment shall have the exclusive power concerning the following:

D. To grant variances from the strict enforcement of the standards and provisions prescribed by this Ordinance. Variances shall only be granted based upon the criteria prescribed in this Ordinance.

E. To hear and decide any appeal from an order, requirements, decision, or determination made by the Planning and Zoning Commission.

F. To interpret any district boundary on the Official Land Use Map.

G. All decisions by the Board of Adjustment in granting variances, or in hearing any appeals from the Planning and Zoning Commission orders, requirements, decisions or determinations shall be final except that any aggrieved person, department, agency, or resident of Helga Township shall have the right to appeal to the District Court within fifteen (15) days after issuance of a written decision made by the Board of Adjustment. In the event of a tie vote that precludes the Board from reaching a decision by a required majority, the result shall constitute a DENIAL for all purposes including, but not limited to, the requirements of Minn.Stat. Section 15.99. The Board shall promptly take all action required upon a denial automatically deemed under this policy in the same manner as if the Board had voted to deny the request.

H. Any vacancy shall be filled by appointment by the Town Board for the balance of the unexpired term.

I. Upon notice and hearing a member of the Board of Adjustment may be removed for incompetence, misconduct in office, or absenteeism, including but not limited to, absence from three consecutive meetings without reasonable excuse.

SECTION 3: The position of Land Use Administrator is hereby established, which the Town Board may appoint as it may deem proper. The term of office of Land Use Administrator shall be indefinite and shall terminate at the pleasure of the Town Board. The Land Use Administrator shall follow the direction and instruction of the Town Board.

SECTION 4: Fees. In order to defray the administrative costs associated with the processing of applications for land use and related permits, conditional use permits, variance requests and amendments, a schedule of fees shall be prescribed and adopted by resolution passed by the Helga Town Board of Supervisors. This schedule of fees shall be posted in the Helga Town Hall.

SECTION 5: Land Use Permits: On or after the effective date of this Ordinance, no person shall excavate for a basement, erect a foundation, or change the exterior perimeter of a building vertically or horizontally, move, or alter any building, structure, or part thereof, in a manner that increases the foot print by 101 square feet or more without first obtaining a land use permit from the Township (excluding open air decks).

A. Exceptions: Replacement of siding, doors, windows, roof, interior remodeling, or replacement of any wells or septic systems are permitted without a land use permit. However, well and septic system replacements permits must be obtained from Hubbard County.

B. Application Process: Application for a permit shall be signed by the applicant or his/her authorized agent and filed with the Town Clerk. The application shall be accompanied by the required permit fee, a sketch describing the improvement and giving its dimensions, an estimate of the cost of said improvement, the location of the improvement in relation to adjoining boundary lines, right-of-way lines, existing buildings or structures, a description of the existing and planned uses of the land and buildings, a current fire number, a phone number and address where the applicant can be reached, the appropriate fee and such other information as may be required by the Township. **IN THE EVENT THE IMPROVEMENT IS THE CONSTRUCTION**

OF A NEW DWELLING, THE APPLICATION FOR A BUILDING PERMIT SHALL CONTAIN A DESCRIPTION OF THE LOCATION OF THE WELL, SEPTIC TANK, DISTRIBUTION BOX, AND DRAIN FIELD.

C. **Penalties:** Failure to obtain a land use permit prior to commencing the above activities renders the landowner subject to penalties under this Ordinance. Any person commencing land use activity which requires a permit, without obtaining prior authorization, shall pay double permit fees. The land use permit must be displayed on the property during the excavation, moving, changing, or altering any part of the structure or part thereof. Failure to display the land use permit will subject the landowner to penalties under this Ordinance.

D. **Setbacks:** If you do obtain a Land Use Permit, please remember that building setbacks on all structures shall be setback a distance of not less than fifty (50) feet from the edge of the road right-of-way as defined in this Ordinance.

Lots that have double frontage (exposure to a roadway), are required to comply with the fifty (50) foot setback on both frontage lines. All structures shall be setback a distance not less than thirty (30) feet from the side and rear lines of the lot.

E. **Duration:** All land use permits are valid for one (1) year from the date the permit is issued. If substantial construction has not taken place within one (1) year from the date on which the permit was granted, the permit shall become void.

Fees for land use permits required under this Ordinance shall be set by the Town Board on an annual basis and are available through the Township Clerk and Township.

SECTION 6: Conditional Use Permits:

1. **Application:** Application for a conditional use permit shall be made by the property owner or his/her authorized agent to the Town Clerk. The Town Clerk shall forward the application and materials to the Township. The established fee must be included with the conditional use permit application in order for the matter to be scheduled for a public hearing. Please note that the fee for a conditional use permit is separate from the fee required for a land use permit under this Ordinance. The fee schedule is available through the Town Clerk. No conditional use permit shall be approved unless real estate taxes on the subject property are current.

2. **Information Required:** All applications shall include the information required for a land use permit together with any other information required by specific sections of this Ordinance and all other information requested by the Planning & Zoning Commission and the Township.

3. **Site Investigation:** Upon receipt of a conditional use application to the Township Clerk, a site investigation shall be conducted by the Planning & Zoning Commission. Thereafter, the conditional use permit will be reviewed upon receipt of a written and signed violation complaint. In accordance with Minn. Stat. §13.44, the identity of individuals who register complaints with the Township concerning violations of this Ordinance shall remain confidential.

4. **Notice:** Prior to the public hearing, published and posted notice must be given. Notice shall be published in a office legal newspaper at least ten (10) days prior to the public hearing and notice shall also be posted at places designated as legal places for posting notices at least ten (10) days prior to said public hearing. Owners of adjoining property within the Helga Township and within Five hundred (500) feet of a boundary line of the property for which a

conditional use permit is requested shall be notified by first-class mail as to the time, place and purpose of the public hearing. Failure of any such property owner to receive such mailed notice shall not in any way affect the validity of the hearing or the result thereof. If a special hearing of the appropriate body of the township is requested by the applicant, an additional fee shall be paid by the applicant before a hearing will be scheduled.

5. **Hearing:** The Planning & Zoning Commission, within forty-five (45) days after receipt of the application, fee and required information, shall act on the application at a public hearing. The Planning & Zoning Commission shall approve or deny the issuance of a conditional use permit. The Planning & Zoning Commission's decision shall include written findings and written conditions if granted.

6. **Criteria Standards:** In addition to any other criteria or standards specifically set forth in this ordinance or unique to the special circumstances of the requested use, the standards reviewed by the Planning & Zoning Commission and Town Board shall issue permits only if it finds that such use at the proposed location:

- a. Will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the Township.
- b. Will be harmonious with the general and applicable specific objectives of the Township's Comprehensive Plan.
- c. Will be designed, constructed, operated and maintained to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area.
- d. Will not be hazardous or disturbing to existing or future neighboring uses.
- e. Will not involve uses, activities, processes, materials equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise smoke, fumes, scenic blight, glare or odors.
- f. Whether lighted signs or other signs will impair the enjoyment of property and/or property owners in the vicinity.
- g. Whether the use permitted under the terms and conditional of any conditional use permit can be established and conducted in conformity.
- h. Whether provisions for adequate parking, current and anticipated traffic congestion, traffic safety have been provided so as not to constitute a nuisance.

It is the applicant's burden to prove that the above criteria and standards can be met in a manner that does not adversely affect the health, safety or general welfare of the residents in Helga Township.

7. **Conditions:** Upon consideration of the criteria and standards listed above, the Planning and Zoning Commission may attach such conditions, in addition to those required elsewhere in this Ordinance, as it deems necessary to achieve the purpose of this Ordinance. These conditions may include, but shall not be limited to:

- a. Increased setbacks;
- b. Landscaping, berming, fencing, screening or other facilities to protect nearby property;
- c. Periods and/or hours of operation;
- d. Intensity and duration of lighting;
- e. Deed restrictions;
- f. Location of parking and signs;
- g. Toxic material storage and handling;
- h. Fire control and access plan;
- i. Compliance with prior conditional use permits and periodic reviews;
- j. Any other reasonable requirements necessary to fulfill the purposes and intent of this Ordinance.

All conditional use permits shall be recorded with the Hubbard County Recorder. The permit shall be valid for a period of one (1) year from the date of issuance. If substantial construction has not taken place within one (1) year after the date on which the conditional use permit was granted, the permit shall become void. If the conditional use for which the permit was granted is discontinued for a period of one (1) year, the conditional use permit shall become void.

8. Appeal: An appeal of the Planning and Zoning Commission's decision may be made, within fifteen (15) days of issuance of the written decision, to the Board of Adjustment. An appeal of any Board of Adjustment's decision may be made to the District Court within fifteen (15) days after receipt of the notice of the written decision of the Board of Adjustment.

9. Violations: Violation of any of the terms and conditions of a conditional use permit issued pursuant to this Ordinance, or of any provision of this Ordinance relating to the subject matter of a conditional use permit, shall result in the immediate revocation of such permit. The revocation of a conditional use permit may be appealed to the Board of Adjustment in the same manner as the appeal of a denial of the issuance of a conditional use permit.

SECTION 7: VARIANCES: Upon written application to the Town Clerk, the Board of Adjustment may grant a variance from the provisions of this Ordinance in order to promote the effective and reasonable application and enforcement of this Ordinance.

1. Application: The application for said variance shall be in writing and shall contain the same information as required for a conditional use permit, a statement of the reasons for the requested variance and all other information requested by the Township deemed necessary. The appropriate fee shall be paid in order for the application to receive consideration by the Board of Adjustment.

2. Site Investigation: Upon receipt of a variance application to the Town Clerk, a site investigation shall be conducted by the town board.

3. Notice: Prior to the public hearing, published and posted notice must be given. Notice shall be published in the Township's official legal newspaper at least ten (10) days prior to the public hearing and notice shall also be posted at places designated as legal places for posting notices at least ten (10) days prior to said public hearing. Owners of adjoining property within Helga Township and within Five hundred (500) feet of a boundary line of the property for which a special use permit is requested shall be notified by first-class mail as to the time, place and purpose of the public hearing. Failure of any such property owner to receive such mailed notice shall not in any way affect the validity of the hearing or the result thereof.

4. **Hearing:** The Board of Adjustment shall make the final decision after conducting a public hearing. No variance shall be approved unless the applicant meets all of the provision of this Section. Within 45 days of receipt of the application, the Town Clerk shall set a time and place for a hearing on the application.

5. **Criteria:** After the hearing provided for above, the Board of Adjustment shall determine if the strict enforcement of any provisions of this Ordinance would cause unnecessary hardship or if that strict enforcement would be unreasonable, impractical or infeasible under the circumstances. If so determined, the Township may permit a variance from the terms and provisions of this Ordinance, provided that:

- 1) The applicant has demonstrated a hardship. (Hardship means the property cannot be put to a reasonable use under conditions allowed by this Ordinance. Economic considerations alone do not constitute a hardship.)
- 2) There are exceptional circumstances unique to this property, which were not created by the landowner.
- 3) The variance can be granted without upsetting the purpose and intent of this Ordinance.
- 4) The variance can be granted without altering the essential character of the surrounding area.

6. **Conditions:** Upon consideration of the criteria listed above, and in the event that the Board of Adjustment decides to grant the requested variance, the Board of Adjustment may attach such conditions, in addition to any other conditions required by this ordinance, to the variance so as to minimize the inconsistency of the varied use with the permitted used set forth in this Ordinance. All variances shall be recorded with the Hubbard County Recorder.

7. **Appeal:** All decisions by the Board of Adjustment in approving or denying a variance request are final except that any aggrieved person, department, agency, board of commission or resident of Helga Township shall have the right to appeal to the District Court in which the property is located within fifteen (15) days after issuance of a written decision of the Board of Adjustment.

8. **Violations:** Any violation of the terms and conditions of a variance issued pursuant to this Ordinance, or the violation of any provision of this Ordinance relating to the subject matter of the variance, shall result in the immediate revocation of such variance. The revocation of a variance may be appealed in the same manner as the appeal of the denial of the issuance of a variance.

ARTICLE IX

APPEALS

The Town Board is hereby designated the Board of Adjustment of Helga Township. The Board of Adjustment shall decide appeals where it is alleged that there is an error in the order, requirement, decision, permit or determination made by the administrative authority in the administration and enforcement of this Ordinance or any amendments thereto. In exercising this appeal power, the Board of Adjustment may reverse or affirm, wholly or partly, or modify the order, requirement, decision, permit or determination appealed from, and issue such order, requirement, decision permit or determination as it deems appropriate and shall have all powers of the administrative authority from whom the appeal is taken.

Appeals to the Board of Adjustment may be taken by any person aggrieved, whether or not that person is the owner of the property affected directly by the decision being appealed from, or by any officer of the Township. Such appeal shall be taken within fifteen (15) days after the administrative authority issues a written decision by filing a written appeal with the Town Clerk and, as applicable, upon serving a written notice of appeal on the individual receiving the permit or variance. The notice of appeal shall specify the grounds upon which the appeal is brought.

The Town Clerk shall then proceed in accordance with the provisions of this Ordinance relating to the setting of hearings, giving of notices, and holding of hearings relating to conditional use permits so as to ensure the giving of proper posted and published notice of the hearing before the Board of Adjustment and to ensure the holding of said hearing. The Township shall give written notice of said hearing before the Board of Adjustment to the individual who is taking the appeal and to the property owner in the manner provided for written notice to adjoining property owners under the conditional use permit provisions of this Ordinance.

Upon the filing of notice of appeal pursuant to this article, the permits or variances issued by the administrative authority, which is subject to an appeal, shall not be valid until the appeal has been finally acted upon by the Board of Adjustment.

An appeal from the written decision of the Board of Adjustment may be made within fifteen (15) days after the decision is issued to the District Court. The service requirements for such appeal shall comply with those requirements for a summons and complaint under Minnesota Rules of Civil Procedure.

ARTICLE X

AMENDMENTS

Amendments of this Ordinance subject to Section 366.15 of the Minnesota Statutes Annotated shall be initiated and carried out in accordance with said section. All other amendments shall be initiated by one of the following two methods and may be effected by a majority vote of the Town Board:

- 1) Resolution of the Town Board.
- 2) Petition by fifteen or more property owners for an amendment to this Ordinance.

No amendment to this Ordinance not subject to Section 366.15 of the Minnesota Statutes Annotated shall be effective until the same has been considered by the Town Board at a public hearing and all interested parties have been heard. Said hearing shall be noticed and held in accordance with the provisions relating to conditional use permit hearings.

Petitions Previously Denied: Where any petition for amendment of this Ordinance has been denied, another petition for the same amendment may not be made for at least a period of one year from the date of such denial.

ARTICLE XI

ENFORCEMENT

1. **Enforcement:** The Helga Town Board or its appointed representatives have the authority to enforce this Ordinance by issuing citations for criminal or civil violations of this Ordinance upon the owner of a property and/or their authorized agent. Any violation of the provisions of this ordinance or failure to comply with any of its requirements by a landowner or their agent, including violation of or failure to comply with conditions and safeguards established in connection with the

granting of variances or conditional uses shall constitute a misdemeanor and shall be punishable as defined by Minnesota Statute. Violations of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to this Ordinance. Each day of a violation of this Ordinance or each day that a failure to comply with any requirements of this Ordinance continues shall constitute a separate offense.

2. **Prosecution:** The Helga Town Board or its legally authorized agent may enforce the Ordinance whether through criminal prosecution, civil remedy, or both. Utilization of a civil remedy shall not prevent a criminal prosecution for the same violation. A criminal prosecution for a violation shall not be a bar to a civil remedy. Helga Township may sue for injunctive relief on any violation, including restoration of the premises to its condition existing prior to the violation.

3. **Cease and Desist Orders:** The Helga Town Board or its legally authorized agent may issue cease and desist orders to halt the progress of any on-going violation. When any work has been stopped by the Township, it shall not again be resumed until the reason for the work stoppage has been completely satisfied and the cease and desist order lifted. An appeal of a cease and desist order may be made to the Board of Adjustment.

4. **After the Fact Applications:** Any application for a permit which is made after the work is commenced and which requires a permit shall be charged a double administrative fee.

5. **Performance Bond:** Where a performance bond is deemed necessary to protect the health, safety and welfare of township residents, the Planning and Zoning commission, Board of Adjustment or Town Board may require a surety bond, cash escrow, certificate of deposit, securities, letter of credit or cash deposit prior to the issuing of a conditional use permit, initiation or work on proposed improvements or development or variance. Said security shall be irrevocable and shall guarantee conformance and compliance with the conditions issued, Helga Township Land Use Ordinance, Minnesota State law, and/or the Ordinance of the County.

6. **Assessment:** Upon Court approval, Helga Township may seek the costs of enforcement against any person, business, or party found to have violated the Helga Township Land Use Ordinance. A person, business, or party is considered to have violated the Helga Township Land Use Ordinance if (1) the person is found by the court to have violated the ordinance or (2) upon admission by the violator.

The Costs of enforcement shall include, but not be limited to: the administrative costs of enforcement, reasonable attorney's fees in enforcement, investigative costs and court costs.

Within forty-five (45) days of a violation as determined by the Court (where no appeal has been timely filed) or upon admission of the violator, Helga Township may certify the costs of enforcement by mailing by certified or registered mail a detailed accounting of the costs of enforcement to the violator at the violator's last known address or the violator's address of record held by Hubbard County Auditor's office. The violator has 30 days in which to appeal the assessment by filing and serving a written appeal with the Township Clerk. The written appeal must include a detailed explanation for the objection to the assessment. If the costs of enforcement are not paid within thirty (30) days (absent an appeal) of receipt of the mailing, Helga Township may certify the costs as any other special assessment. The appeal of an assessment under this provision shall be heard by the Board of Adjustment.

ARTICLE XII

CONFLICT WITH OTHER LAWS

When any provision of this Ordinance imposes requirements more restrictive than required by existing laws of the State of Minnesota or any ordinance of Hubbard County, Minnesota, the provisions of this Ordinance shall govern. An exception shall be shoreland areas, which will continue to be controlled by Hubbard County Ordinance Number Two -- Ordinance for the Management of Shoreland Areas of Hubbard County, Minnesota.

ARTICLE XIII

VALIDITY

Should any section or provision of this Ordinance be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than the part specifically and necessarily declared by said Court to be invalid. Furthermore, in constructing this Ordinance, a Court of competent jurisdiction should delete or otherwise change the language of this Ordinance so as to ensure its validity if said deletion or change would be consistent with the intent and purpose of this Ordinance.

ARTICLE XIV

EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after its passage, posting and recording according to law. Copies of this Ordinance shall be kept by the Town Clerk and shall be available for public inspection. A copy of this Ordinance shall be recorded in the Office of the Hubbard County Recorder upon adoption and any amendments thereto shall likewise be recorded with the Hubbard County Recorder.

Adopted by the Helga Town Board of Supervisors on this 22 day of Sept, 2005.


Silas M. Hooker -- Helga Township Chair

ATTEST:

Bobbie Donat -- Helga Township Clerk

My Term Expires: March 2006