

265886

COUNTY RECORDER, HUBBARD COUNTY, MN
I hereby certify that the within instrument
was filed in this office for record on the
11th day of August, A.D., 2000 at
9:30 o'clock A M. and was duly recorded in
Book V of Misc. on Page 903
Kathy Rossi
COUNTY RECORDER

Deputy

**Helga Township
Land Use Ordinance
(Originally adopted as of April 18, 1979 and
Amended as of July 13, 2000)**

Pursuant to Sections 366.10 through 366.182 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 insure, 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

DISTRICTS

For the purposes of carrying out the provisions of this ordinance, Helga Township shall be designated as an Agricultural District.

ARTICLE III

DEFINITIONS

For the purpose of this ordinance, the following terms shall have the meaning hereinafter indicated in this Article unless otherwise 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: A subordinate building 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) Accessory Use: A subordinate use which is incidental to and customarily connected with the principal building or use and which is carried on the same lot with such principal building or use.

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Bemidji, MN 56619-0880

- 3) **Administrative Authority:** The Planning and Zoning Commission of the Township, the town board and the Board of Adjustment, which is charged by this ordinance with the administration of the terms and provisions hereof.
- 4) **Alley:** A narrow street dividing a block of lots which gives access to the rear of the affected lot and which is not intended as a main thoroughfare.
- 5) **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.
- 6) **County:** Hubbard County, Minnesota.
- 7) **County Planning Commission:** The Hubbard County Planning Commission established pursuant to law.
- 8) **County Board:** The Board of County Commissioners, Hubbard County, Minnesota.
- 9) **Culdesac:** A vehicular turn around terminating a dead end street.
- 10) **Dead end street:** A comparatively short street having but one end open to traffic and the other end being terminated by a vehicular turn around.
- 11) **District:** Any section of the Township of Helga in which the regulations governing the use of land are uniform.
- 12) **Dwelling** any building or portion thereof which is designed and used for residential purposes, including a mobile home.
- 13) **Dwelling, single family:** Building designed for or occupied exclusively by one family, including a mobile home.
- 14) **Dwelling, two family:** A building designed for or occupied exclusively by two families, including a mobile home.
- 15) **Dwelling, multiple:** A building designed for or occupied by more than two families, including a mobile home.
- 16) **Dwelling, unit:** One or more rooms in a dwelling occupied or intended to be occupied as separate living quarters by a single family.
- 17) **Easement:** A grant by the owner of land for the specific use of said land by the public or a person for specific purposes.
- 18) **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.
- 19) **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.

- 20) Final plat: The final map, drawing, or chart prepared pursuant to Minnesota Statutes 505.01 to 505.177 on which the subdividers plan or subdivision is presented to the County Board and the administrative authority for approval and which, if approved, will be recorded with the County Recorder or the County Registrar of Titles.
- 21) 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.
- 22) Initial plat: The preliminary map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the County Planning Commission and the administrative authority for their consideration.
- 23) 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.
- 24) Junkyard: A place maintained for keeping, storing or piling, whether temporarily, regularly, or continually, or a place maintained for buying or selling at retail or wholesale, any old, used, or secondhand material of any kind, including, but not limited to, motor vehicles, machinery and/or parts thereof, cloth, rugs, clothing, paper, rubbish, bottles, rubber, iron, or other metal or articles which from their worn condition render them practically useless for the purpose for which they were made. This shall include a lot or yard for the purpose of keeping unlicensed motor vehicles or the remains thereof for the purpose of dismantling; sale of parts therefrom, sale of scraps, storage, or abandonment.
- 25) Mobile home: A transportable, single or multiple family dwelling unit, suitable for year-around occupancy and containing the same water supply, waste disposal, and electrical conveniences as immobile housing and subject to tax or registration, as such, under provisions of Chapters 168 or 273 of the Minnesota Statutes Annotated.
- 26) Mobile home park: Any site, lot, field, or tract of land upon which two or more occupied mobile homes per acre are harbored, either free of charge or for revenue purposes, including any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of such mobile home park.
- 27) Non-conforming use: Any building or land lawfully occupied or used at the time of passage of this ordinance or amendment thereto which does not conform after the passage of this ordinance or amendment thereto with the use regulations of the district in which it is situated.
- 28) 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.

- 29) Premises: A lot, together with all buildings and structures thereon.
- 30) Principal building: A building or structure in which is conducted the main or principal use of the premises on which said building or structure is situated.
- 31) Principal use: The primary or main use of the premises, which is subject to this ordinance.
- 32) Right-of-way: Land used as an easement, road, street, alley or crosswalk.
- 33) Road: A right-of-way, which affords the principal means of access to abutting property. A road may be designated as a highway, thoroughfare, street, parkway, boulevard, avenue, lane, drive, easement, place or other appropriate designation.
- 34) 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.
- 35) Structure: Anything constructed or erected, the use of which required permanent or temporary location on the ground or attachment to something having a permanent or temporary location on the ground, including but not limited to, signs and buildings.
- 36) Structural alteration: Any change, except those required by law or ordinance, which would prolong the life of the supporting members of a structure or building, such as bearing walls, columns, beams or girders.
- 37) Subdivider: Any person who undertakes the subdivision of land as defined in present or future ordinances of Hubbard County. Said subdivider may be the owner of land to be subdivided.
- 38) Subdivision: The process of subdividing land as defined in the present or future ordinances of Hubbard County.
- 39) Variance: A modification of the application of the zoning ordinance to a specific lot, where, because of the existence of circumstances such as those described in the variance provisions of this ordinance, strict enforcement would cause undue hardship or practical difficulties in the use of the land. Such modification may include extension or enlargement of non-conforming uses.
- 40) Sanitary landfill: Any area of land which is or could be used for the disposal of solid waste without creating pollution of land, water, or air, without creating hazards to the public health or safety or without creating a public nuisance, by utilizing principals of engineering to confine the solid waste to the smallest practical volume. This definition shall include, but not limited to, all sanitary landfills, whether modified or not, permitted and approved by Hubbard County and/or the Minnesota Pollution Control Agency.
- 41) 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.
- 42) Yard front: The area between a line drawn from side to side on the lot at the point of the front of the main building and the front line of the lot, the front line being the line along any road abutting the lot.

- 43) Yard rear: The area between a line drawn parallel to the rear of the building running from side to side on the lot and rear lot line.
- 44) Yard side: The area between a line drawn parallel to the side of the main building running from the front lot line to the rear lot line and the side lot line.
- 45) Water course: The word water course shall include channel, creek, ditch, river and stream.

ARTICLE IV

GENERAL REGULATIONS

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 lot size for establishing a single family dwelling in Helga Township shall be five (5) acres including any right of ways. The minimum width of any lot shall be 300 feet, including any right of way at the narrowest dimension of the lot. Any other buildings commercial, multiple dwelling, industrial, or public establishments shall be considered on an individual basis.

Sanitary Specifications: EVERY DWELLING SHALL BE PROVIDED WITH A SEWAGE DISPOSAL SYSTEM. All new sewage disposal systems or remodeled existing sewage disposal systems shall consist of an approved solid septic tank, distribution box and drain field. All new drain fields shall be constructed at least 100 feet from any well or other water supply.

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 granted by the administrative authority pursuant to the conditional use permit procedures of this ordinance. As provided for with respect to all conditional uses, the administrative authority may, as a condition of granting the conditional use permit, impose all conditions on said use which will guarantee the health, welfare and safety of the inhabitants of the township and individuals neighboring said excavation area and otherwise insure the proper management of the area. As a further condition of issuance of a conditional use permit for said excavation, the administrative authority may impose appropriate standards for reclamation of the land subject to the excavation so as to insure its restoration to its original condition insofar as possible after removal of the minerals. To insure this restoration, the administrative authority may employ the security arrangement provided for in this ordinance relating to construction of roads in subdivisions by a subdivider.

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 insure visibility for vehicles using said intersection.

Sanitary Landfill: The purpose of this section is to enable the administrative authority to impose more environmentally restrictive and protective standards and requirements for the establishment and operation of sanitary landfills than those which may be imposed by a license issued by Hubbard County for the establishment and operation of said facilities or a permit issued by the Minnesota Pollution Control Agency for the establishment and operation of said facilities. No sanitary landfill shall be established or operated unless the same is established and operated in strict compliance with a permit issued by the Minnesota Pollution Control Agency pursuant to said agency's rules relating to the establishment and operation of said facilities, a license issued by Hubbard County pursuant to said county's ordinances relating to the establishment and operation of said facilities, and a conditional use permit issued by the administrative authority pursuant to this ordinance.

Subject to the following provisions of this section, a conditional use permit shall only be issued for establishment and operation of a sanitary landfill which will be established and operated in strict compliance with the permit and license of the Pollution Control Agency and county referred to above and in strict compliance with all additional standards and requirements of the Minnesota Pollution Control Agency relating to the establishment and operation of said facilities not imposed by said permit and license which the administrative authority imposes as additional safeguards against pollution of the air, land, and water resources of the township, as additional safeguards against the endangering of the health, safety, and welfare of the inhabitants of the township, and as additional safeguards against scenic blight and the undue reduction of land values resulting from the establishment and operation of said facilities.

A conditional use permit may be issued for establishment and operation of a sanitary landfill which will be operated without the strict compliance with all additional standards and requirements referred to above, if, after proper application for said conditional use permit, the administrative authority determines that strict compliance cannot be achieved due to technological impossibilities or economic unreasonableness.

Application for said permits shall consist of five copies of all material that is submitted to the Minnesota Pollution Control Agency and Hubbard County, by the applicant, during the course of proceedings to obtain permits and licenses from those authorities and said application shall be processed in accordance with the general provisions relating to the issuance of conditional use permits contained in this ordinance.

Signs and Outdoor Advertising: All signs require the issuance of a conditional use permit prior to being erected except the following, when the following are not more than six square feet in area:

1. Signs advertising a customary home occupation.
2. Temporary signs advertising the sale, rent, or lease of property.
3. Recreational directory signs.

The following signs are prohibited:

1. Those, which interfere with visibility of drivers or obstruct, traffic signs.
2. Those that are illuminated by a flashing light or by any light directed toward a neighboring residence or toward a watercourse, except emergency or warning signs.
3. Those that contain any conspicuous animated part.

As a condition of issuing a conditional use permit for a sign, the administrative authority may

impose such conditions relating to size, shape, color, location, and lighting as will insure the compatibility of said sign with the surrounding area.

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.

Parking Regulations: Parking space shall be provided in all areas as follows:

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. Dwellings: Whenever a building is erected, converted or structurally altered for use as a dwelling, at least two parking spaces shall be provided on the lot for each dwelling unit.
3. 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.
4. Commercial establishment: Each commercial establishment for which a permit is issued under this ordinance shall provide ample parking space so that the existence of such business will not constitute a traffic hazard or a nuisance to other existing uses in the neighborhood.

ARTICLE V

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.

Upon submission of the information required of the subdivider in presenting the proposed plat to the Planning Commission of Hubbard County/Hubbard County Board, the subdivider shall also present seven copies of said information to the Administrative Authority. In addition, the subdivider shall submit seven copies of all restrictive covenants or other land use restrictions which will be imposed upon the purchasers of the lots described in the initial plat, their heirs, and assigns, upon sale of said lots. Furthermore, the subdivider shall also provide information relating to the unsuitable characteristics of all lots which are marginally suited to building construction and human occupancy by reason of flooding, inadequate drainage, soil and rock formations, unfavorable topography, soil erosion, inadequate water supply, inadequate sewage disposal characteristics and other reasons that would make said lots marginally suitable for building construction or human occupancy.

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 establish and construct the roads in accordance with the requirements and specifications set forth or incorporated herein, said establishment and construction to be effected at the expense of the developer or private builder who shall be required to furnish all engineering services, labor, materials, equipment and all other things or services necessary to establishment and construction of said roads.

The administrative authority, its representatives or agents and/or the county engineer of Hubbard County, his representative, or agents, may inspect the establishment and construction of said roads at all reasonable times and said individuals may perform all necessary tests relating to the establishment and construction of said roads so as to insure their establishment and construction in accordance with the specifications and requirements set forth or incorporated therein.

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 administrative authority informing the developer or private builder of said noncompliance and the necessary corrections which will effect compliance.

Upon completion of the establishment and construction of said roads in accordance with this ordinance, the administrative authority, its representatives or agents and/or the county engineer, his representatives or agents, shall perform a final inspection and testing of said roads and upon completion of any final corrections required as a result of said final inspection and testing, said roads shall be deemed to have been established in accordance with this ordinance and the developer or private builder shall have no further liability hereunder except liability relating to warranty and indemnity as set forth herein.

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 in accordance with this ordinance as set forth above.

The developer or private builder shall indemnify and hold harmless the township from and against all claims, damages, losses and expenses, including reasonable attorney fees, arising out of the establishment and construction of said roads for all claims or causes of action arising from the date of approval of said road by the administrative authority until two years from the date said roads are deemed to be established in accordance with this ordinance as set forth above.

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.

The subdivider shall establish and construct said roads in accordance with the specifications and requirements set out in Section 6 of the Subdivision Controls Ordinance of Hubbard County and in accordance with the following requirements:

- 1) That the subdivider shall install culverts necessary for adequate drainage as determined by the administrative authority in consultation with the county engineer.

- 2) That the subdivider shall remove all extra fill, stumps, refuse, and any other materials or equipment relating to or resulting from the establishment and construction of said roads.
- 3) That the subdivider shall seed or sod all roadsides so as to prevent erosion in accordance with the requirements of the administrative authority after consultation with the county engineer, said seed or sod to be of a quality acceptable to the administrative authority.
- 4) That the subdivider shall install all traffic signs deemed necessary by the administrative authority after consultation with the county engineer.
- 5) That said road shall be, insofar as possible, constructed in accordance with the construction and material standards used by the County of Hubbard in construction of its roads of a similar type.
- 6) That the subdivider shall construct said roads in accordance with any other requirements deemed necessary by the administrative authority after consultation with the county engineer.

To implement the terms and provisions of this section, the subdivider and administrative authority shall enter into an agreement, binding upon the subdivider, his heirs and assigns, requiring the compliance by the subdivider with the terms and provisions of this section relating to the establishment and construction of roads. In the event that the administrative authority deems it necessary to obtain security for establishment and construction of said roads in accordance with this section, the administrative authority 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 of the terms and provisions of this ordinance and the agreement referred to above. 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 administrative authority which will give the administrative authority adequate collateral to insure construction of the roads in accordance with this ordinance, a defensible conveyance running in favor of the administrative authority covering an agreed number of lots in the plat which will give the administrative authority adequate collateral to insure construction of the roads in accordance with this ordinance, or such other security arrangement as the administrative authority may deem appropriate. In the event of incorporation of said security agreement in the agreement referred to above, the agreement referred to above shall not be effective until said security agreement has been executed by the subdivider and the administrative authority. The incorporation of any such security agreement in the agreement referred to above shall be noted at the conclusion of said agreement.

A waiver by the administrative authority or the failure of the administrative authority to take action with respect to any breach or violation of any provision of this ordinance or any term, covenant, or condition of the agreements referred to above shall not be deemed to be a waiver of such provision, term, covenant, or condition or any subsequent violation or breach of the same or any other provision, term, covenant, or condition.

The administrative authority shall have the right to give notice and order correction of

noncomplying work overlooked on inspections and tests conducted prior to the final inspection as provided for herein.

The times provided for in this provision and in the agreements referred to above may be extended or modified in the discretion of the administrative authority in the event that compliance by the subdivider is determined to be unreasonable, impractical, or infeasible under the circumstances and said extensions or modifications will not be contrary to the public interest, damaging to the rights of other persons, damaging to the property values in the surrounding area, or contrary to the management policies relating to the surrounding area.

The administrative authority or township shall not and does not accept or assume any legal responsibility relating to the establishment, construction, maintenance, or use of said roads by reason of the execution of any of the agreements referred to above and the administrative authority shall disclaim in the agreements referred to above any responsibility relating to the establishment, construction, maintenance, or use of said roads until said roads are established as township roads in accordance with law.

The agreements referred to above shall be recorded with the County Recorder of Hubbard County.

Upon receipt by the town clerk of a copy of the initial plat from the County Auditor's office and upon receipt of the additional copies required to be submitted by the subdivider to the administrative authority, the administrative authority shall schedule a meeting to consider the initial plat. After hearing the comments of all of the interested parties, after making any other investigations of the initial plat and after otherwise obtaining any other information deemed appropriate by the administrative authority, the administrative authority shall forward written preliminary approval or disapproval of said initial plat to the County Auditor's office along with any written comments relating to said preliminary approval or disapproval. Said meeting and forwarding of the preliminary approval or disapproval of said plat shall be accomplished so as to insure that said written approval or disapproval is received by the County Auditor's office within 30 days of receipt of the initial plat from the County Auditor.

Upon final approval of the final plat by the Hubbard County Board of Commissioners pursuant to the County Zoning Administrator of Hubbard County, the administrative authority shall approve said plat if it approved the initial plat and the final plat approved by the Hubbard County Board of Commissioners does not significantly vary from the initial plat submitted to the administrative authority. However, if the administrative authority disapproves the initial plat, it shall not approve the final plat unless it receives adequate assurance from the Hubbard County Board of Commissioners that the reason for the disapproval of the initial plat by the administrative authority will be removed from the final plat as approved by the Hubbard County Board of Commissioners. On approval of the plat by the administrative authority, said approval shall be endorsed on the plat and signed by the chairman and secretary of the administrative authority.

ARTICLE VI

NON-CONFORMING USES

SECTION 1: Non-Conforming Uses Defined: 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.

SECTION 2: 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 and the specific variance criteria set forth in this section.

In considering the granting of a variance for use of a lot, which does not meet the area regulations applicable to the township, the administrative authority shall consider the following:

- 1) Whether the applicant for the variance owns two or more adjoining lots which could be combined to create a lesser number of lots which would more closely meet the applicable area regulations.
- 2) Whether the applicant for the variance is the owner of any property adjoining or near the lot for which the variance is requested.
- 3) The extent to which there are unused substandard lots in the area of the substandard lot for which the variance is requested.
- 4) The extent to which there are substandard lots which are in actual use in the area of the substandard lot for which the variance is requested and the type of use of said lots.
- 5) The extent to which there are substandard lots with buildings constructed thereon in the area of the substandard lots which the variance is requested and the type of buildings on said lots.
- 6) The detrimental effect of denial of the variance on the market value of the lot for which the variance is requested.
- 7) The detrimental effect of denial of the variance on the market value of the lot for which the variance is requested and the market value of adjoining lots owned by the applicant which could be joined to form a lesser total number of lots more closely meeting the area regulations of the township.
- 8) The extent of reliance by the applicant on regulations existing before enactment of the zoning ordinance from which a variance is requested.

- 9) The good faith which has been demonstrated by the applicant relative to the use of the substandard lot in compliance with this ordinance.
- 10) The extent of legal obligations entered into by the applicant in reliance on regulations existing prior to enactment of this ordinance.
- 11) Whether the presently substandard lot met the area regulations applicable under preexisting ordinances.
- 12) Whether the substandard lot was established pursuant to an area regulation variance granted under preexisting ordinances.
- 13) The intended use of the lot by the applicant.
- 14) The extent of efforts undertaken under preexisting ordinances to accomplish the intended use of the lot for which a variance is requested.
- 15) The extent of any actual use of the lot for which a variance is requested.
- 16) The extent of any investment in an intended use of the lot for which a variance is requested, made before and after the effective date of this ordinance.
- 17) The nature of variances which have been previously granted in the area surrounding the lot for which the variance is requested.
- 18) Any unique or unusual circumstances which will cause undue hardship to the applicant if a variance is denied.
- 19) The extent to which the intended use would be compatible with existing or planned use of property in the area.
- 20) The effect which the granting of the variance would have on the rights of other persons or property values in the area.
- 21) The extent of the inconsistency of the intended use with the management policies of the area.
- 22) All other criteria reasonably related to the granting or denial of the variance.

SECTION 3: 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 of 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 4: 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 condition of the conditional use permit. Said conditions may include, but not be limited to size, location, coloring, and lighting.

SECTION 5: 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 eliminates 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 6: To the extent that the general provisions relating to non-conforming uses are applicable to signs and junkyards, the same shall be applicable in addition to the preceding two sections of this article.

ARTICLE VII

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 Township Board in the formation of goals, policies and programs for the future development of Helga Township.
2. Assist the Township 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 Township 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 Township Board to further goals and policies in furtherance of this 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 or 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.

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SECTION 2: A Board of Adjustment is hereby established in accordance with Minnesota law. The Board of Adjustment consist 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, 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:

- A. Act as a land use and zoning inspector for Helga Township.
- B. Conduct on-site inspections of all development to ensure that the standards of this Ordinance are complied with.
- C. Issue permits for permitted use and/or activities which comply with the provisions of this Ordinance.
- D. Receive applications for conditional use permits and forward, along with recommendations, to the Planning and Zoning Commission.

- E. Receive applications for variance requests and forward, along with recommendations, to the Planning and Zoning Commission and Board of Adjustment.
- F. Receive applications for zoning amendments and forward, along with recommendations, to the Planning and Zoning Commission and Board of Adjustment.
- G. Notify property owner of public hearings in accordance with the provisions of this Ordinance.
- H. Maintain all records relating to the application for and deliberations relating to the issuance or denial of permits.
- I. Maintain the Official Land Use Map.
- J. Issue Cease and Desist Orders for violations of this Ordinance as deemed appropriate by the Land Use Administrator. and
- K. Conduct other such activities as the Township Board may, from time to time, request.

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 causes the fair market value of the property (lot or parcel) to increase in value by \$1,000 without first obtaining a land use permit from the Township Land Use Administrator.

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 Town Land Use Administrator. 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 the 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 structure 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.

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 Land Use Administrator

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 Land Use Administrator. 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 Town Land Use Administrator.

3. **Site Investigation:** Upon receipt of a conditional use application to the Township Clerk, a site investigation shall be conducted by the Township Land Use Administrator. The Land Use Administrator shall make a recommendation, in writing, to the Planning and Zoning Commission. Thereafter, conditional use permit will be reviewed upon receipt of a violation complaint.

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:** 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 criteria and standards reviewed by the Planning & Zoning Commission and Town Board in determining whether to grant or deny an application for a conditional use permit include the following:

- a. Whether the conditional use will be injurious to the use and enjoyment of other property and the environment in the immediate vicinity for the purposes already permitted.
- b. Whether the conditional use will substantially diminish or impair the property values and the environment in the immediate vicinity.
- c. Whether the establishment of the conditional use will impede the normal and orderly development of the surrounding vacant property for uses permitted in the area.
- d. Whether adequate utilities, access roads, drainage and other necessary facilities and controls have been, are being, or can be provided.
- e. Whether adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, vibration, scenic blight or other annoyances so that said conditional use will not constitute a nuisance.
- 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 conditions 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 and vegetative screening;
- 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;
- 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.

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.

10. **Transferability: Conditional Use Permits ARE TRANSFERABLE** upon approval by the Town Board. If you sell, transfer or in any way alter ownership of your property, the conditional use permit is not transferable without Town Board approval. The new owner of the property will need to apply for the transfer of the conditional use permit on an application provided by the Township.

SECTION 7: VARIANCES: Upon written application to the Township 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 Land Use Administrator deemed necessary. The appropriate fee shall be paid in order for the application to receive consideration by the Board of Adjustment, and may be granted provided that:

- a. The conditions causing the demonstrated hardship are unique to the property and were not caused by the actions of the applicants.
- b. The variance is necessary in order to secure for the applicant those rights enjoyed by other property owners in the same area or district.
- c. The granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to the property values in the vicinity.
- d. The granting of the variance will not be contrary to management policies of the area or district.
- e. The property owner or owners would have no reasonable use of the land without the variance.
- f. No variance shall be granted without demonstrated hardship;
- g. No variance shall be granted because there are no objections; or because those who do not object outnumber those who do, not for any reasons other than a proven hardship;
- h. No variance may be granted that would allow a prohibited use.
- i. Initiating a project without first obtaining a variance is not considered a hardship; and
- j. Variances may be granted only in accordance with Minn.Stat. Section 462, and any amendments to said Chapter subsequently adopted.

2. **Site Investigation:** Upon receipt of a variance application to the Township Clerk, a site investigation shall be conducted by the Township Land Use Administrator. The Land Use Administrator shall make a recommendation, in writing, to the Board of Adjustment.

3. **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 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 administrative authority may permit a variance from the terms and provisions of this ordinance, provided that:

1) The administrative authority shall consider all other criteria relating to the issuance of a variance, which set forth in other applicable provisions of this ordinance. To the extent that those other provisions are inconsistent with this article, they shall control.

2) The conditions causing the hardship are unusual and unique to the property and not the applicant.

3) The variance is necessary in order to secure for the applicant a right or rights in his/her property that are enjoyed by other owners in the same area.

4) The granting of the variance will not be damaging to the property rights of other persons or to property values in the vicinity.

5) The granting of the variance will not be contrary to management policies of the area in which the property is located.

6) The granting of the variance will not be contrary to the public interest.

7) The granting of the variance is necessary to the reasonable use of the land.

8) That no variance shall be granted simply because there is no objection to the granting of the variance or because those who do not object outnumber those who do.

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 VIII

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 insure the giving of proper posted and published notice of the hearing before the Board of Adjustment and to insure 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 IX

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 368.15 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 X

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 or 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, The Helga Town Land Use Administrator 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 of 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 of 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 XI

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 shore land 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 XII

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 insure its validity if said deletion or change would be consistent with the intent and purpose of this ordinance.

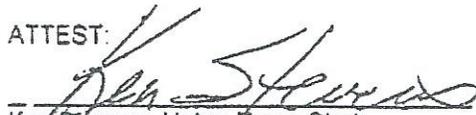
ARTICLE XII

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 County Recorder of Hubbard County upon adoption and any amendments thereto shall likewise be recorded with the County Recorder of Hubbard County.


Glenes Ball, Helga Town Chair

ATTEST:


Ker Stevens, Helga Town Clerk