

HELGA TOWNSHIP LAND USE ORDINANCE

HELGA TOWNSHIP HUBBARD COUNTY, MINNESOTA

Ordinance No.O-12-20-2011-1

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Helga Township Land Use Ordinance

The Board of Supervisors of the Town of Helga ordains:

ARTICLE I **TITLE AND AUTHORITY**

This ordinance, which shall be known as the Helga Township Land Use Ordinance (this "Ordinance"), is adopted pursuant to the Town Board's authority under Minnesota Statutes, section 462.351 to 462.364 and such other law as may apply. This Ordinance does not rely on the authority provided in Minnesota Statutes, sections 366.10 to 366.181 and the procedures and requirements of those sections do not apply to this Ordinance.

ARTICLE II **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 regulating structures and the uses of land, by encouraging and facilitating adequate and economical provision of transportation, and other public facilities, by ensuring adequate and safe water supply and sewage disposal, and by otherwise protecting and preserving the attractive, stable, and wholesome environment of Helga Township. The Ordinance establishes regulations to implement these purposes and prescribes penalties for violating its provisions.

ARTICLE III **GENERAL PROVISIONS**

SECTION 1. Jurisdiction.

This Ordinance shall apply to all areas in Helga Township, Hubbard County, Minnesota, except areas within the incorporated limits of any city, however organized, or as may otherwise be provided by law.

SECTION 2. Abrogation and Greater Restrictions.

It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

SECTION 3. Minimum Requirements and Strictness.

In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and welfare. Where the standards, regulations or requirements imposed by any provision of this Ordinance are either

more or less restrictive than comparable standards, regulations or requirements imposed by any other ordinance, rule, or regulation of the Town, County, State or Federal government, the statute, ordinance, rule or regulation which imposes the more restrictive condition, standard, regulation or requirement shall prevail. In the event of any conflict between this Ordinance with any private restrictions, protections or covenants, the provisions of this Ordinance shall be met. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other powers granted by State statute. References in this Ordinance to any statutes, rules, regulations, or ordinances shall include any amendments to, or successors of, those statutes, rules, regulations, or ordinances.

SECTION 4. County Regulations.

Hubbard County has enacted various ordinances which may impact the development and use of property in the Town. These ordinances include, but are not limited to, Shoreland Management Ordinance No. 17, Individual Sewage System Standards Ordinance (No. 28), Ordinance #32 For the Regulation of Adult Uses and Sexually Oriented Business, Signage Ordinance No. 34, and the Hubbard County Subdivision Ordinance (No. 35). This Ordinance does not adopt, nor shall it be construed as adopting, any portion of those regulations and the Town is not assuming any responsibility for the administration or enforcement of those regulations. The County is responsible for administering and enforcing its regulations and the Town is responsible for administering and enforcing this Ordinance.

- A. **Shorelands and Floodplains.** Those portions of the Town designated as shoreland areas by the County shall be regulated by the County pursuant to its applicable ordinances and any permits required in such areas shall be obtained from the County. Those areas designated as floodplain areas by the County shall be treated as overlay districts for the purposes of this Ordinance and the land within them shall be subject to the regulations of both this Ordinance and of the applicable County ordinances.
- B. **Subdivisions.** Those proposing to subdivide property within the Town shall be subject to the County's subdivision regulations. However, pursuant to Minnesota Statutes, section 505.09, subdivision 1a, the County may not approve the platting of any land within the Town unless the Town Board first approves the plat and the laying of streets and other public ways shown on it. The Town Board may require, as a condition of any such approval, that the owner or developer enter into a development agreement with the Town Board regarding the proposed plat to address such issues as the Town Board may determine are needed in order to adequately protect the public health, safety, and welfare. The process for seeking approval from the Town is set out in this Ordinance.
- C. **ISTS/SSTS.** The County is responsible for administering and enforcing Minnesota Rules, Chapters 7080-7083 regulations regarding individual subsurface sewage treatment systems (ISTS) or subsurface sewage treatment system (SSTS) in the Town.

SECTION 5. Compliance.

No structure shall be erected, placed, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose or in any manner, which is not in conformity with this Ordinance. Construction of all structures and uses must be in accordance with the application, plans, permit, and any applicable variance. Land use permits, conditional use permits, and interim use permits issued on the basis of approved plans and applications

authorize only the use and construction set forth in such approved plans and applications and no other use or construction. Any use or construction not in conformance with that authorized shall be deemed a violation of this Ordinance unless a new or amended permit or variance is first obtained from the Town.

SECTION 6. Prior Zoning Ordinances.

This Ordinance supersedes and replaces all previous land use and zoning ordinances adopted by the Town Board and all such previous land use and zoning ordinances are hereby repealed. The repeal of the Town's previous land use and zoning ordinances does not itself affect the status of any use, structure, or lot that was not in conformance with the earlier ordinances.

SECTION 7. Applications.

All applications must be on forms approved by the Town Board. Any requests not submitted on an approved Town form shall not be considered an application for the purposes of this Ordinance or Minnesota Statutes, section 15.99 and shall be rejected. An application shall be immediately rejected if it is not accompanied by the required application fee. If an escrow is required, the applicant shall submit the required amount for escrow with the Town within five (5) days of the submission of the application or the application shall be deemed incomplete and will not be processed.

SECTION 8. Unpaid Taxes or Charges.

Any application for a zoning request related to property in which there are delinquent property taxes, special assessments, penalties, interest, or past due public utility fees shall not be considered complete and shall not be processed until the owner certifies to the Town, with adequate supporting documentation, that all such delinquent or past due amounts, interest, and penalties have been paid in full. Furthermore, any person that submits an application for a zoning request that owes the Town for past zoning related fees or costs, or if the application relates to property on which there are zoning related fees or costs owed to the Town, the application shall be deemed incomplete and shall not be accepted or processed until all such delinquent or past due amounts have been paid in full to the Town. The Town will not issue a permit or variance to any of the above described properties until all past due amounts, penalties, and interest have been paid in full. The Town may collect any zoning related fees, charges, or costs owed to it by certifying the amount to the County Auditor as a service charge pursuant to Minnesota Statutes, section 366.012 for collection together with the property taxes levied against any real property the person or entity owing the amount owns in the State. The Town will provide the property owner written notice of its intent to certify the amount on or before September 15. The amounts so certified to the County shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes.

SECTION 9. Severability.

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect the application of said provisions to any other property, building, or structure not specifically included in said judgment.

SECTION 10. Performance Bonds.

Where the Town requires a performance bond as a condition of any permit it issues, such security must be issued by a company or bank, and submitted in a form, acceptable to the Town Board. The Town Board may require and accept security in the form a performance bond, maintenance bond, surety bond, cash escrow, certificate of deposit, securities, letter of credit, or cash deposit. The Town Board must approve the specific type and form of security being provided. Any such security must be irrevocable, guarantee conformance and compliance with the conditions of the permit or approval, and must be in the amount and remain in effect as required by the Town Board. The Town Board requiring an Owner to provide a performance bond or other form of security does not obligate the Town to take any particular action with respect to the property if there is a violation of the permit under which the security was required. The Town Board may access and use the security in any reasonable way to address a violation and any resulting conditions on the property or impacts to the surrounding properties, but the Town assumes no duties in this regard and does not guarantee or otherwise promise to take any action, or any particular actions, with respect to a violation or to protect the owner, surrounding owners, the public, or their properties.

SECTION 11. Rules of Interpretation.

The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

1. The singular includes the plural, and the plural the singular;
2. The present tense includes the past and future tenses, and the future the present;
3. The word "shall" is mandatory, and the word "may" is permissive;
4. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be constructed as set forth in such definition. If no set definition is given in this Ordinance, the word or term shall have the meaning given it in the Minnesota Statutes, Minnesota Rules, or the most applicable Hubbard County ordinance to the extent the term is given a specific definition therein. Any question as to the meaning of a word or term used in this Ordinance shall be determined by the Board of Appeals and Adjustments;
5. All measured distances expressed in feet shall be to the nearest 1/10 of a foot;
6. If a use is not listed as permitted in a zoning district, it is not allowed in the district unless the Town Board determines it is a substantially similar use as provided in this Ordinance;
7. General words are construed to be restricted in their meaning by preceding particular words;
8. The references made herein to statutes, rules, regulations, or ordinances of the state or county shall automatically include any amendments made thereto without further action

by the Town Board. Furthermore, such references shall serve to incorporate those statutes, rules, regulations, or ordinances by reference to the extent necessary to achieve the intent and purposes of this Ordinance. However, such incorporations are intended only to give effect to this Ordinance and are not intended to make the Township responsible for the administration or enforcement of the statutes, rules, regulations, or ordinances being referenced; and

9. The listing of examples to further explain a term, concept, requirement, or process is not intended to be, and shall not be interpreted as, an exclusive listing. Unless the context clearly indicates otherwise, such listings are intended to be explanative without being exclusive or limited. The exception to this general rule of interpretation is the listing of uses allowed in a district, which is intended to be limited to only those uses and the uses the Town Board finds to be substantially similar as provided in this Ordinance.

ARTICLE IV **DEFINITIONS**

SECTION 1. Definitions.

For the purpose of this Ordinance, the following terms shall have the meaning hereinafter indicated in this Article, unless specifically stated otherwise.

1. **Abandoned Sign:** A sign located on a property which is vacant or unoccupied for a period of 90 days; or a sign which is damaged, in disrepair or vandalized and not repaired within 90 days.
2. **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.
3. **Agricultural Uses:** Those uses commonly associated with the growing of crops, produce and raising of livestock on farms. These uses include: field crop farming; pastures; the production of hay, the growing of fruits and vegetables and other produce; tree, plant, shrub or flower nurseries that do not include buildings or greenhouses; truck gardening; temporary roadside produce stands in season; and livestock raising and feeding. Agricultural uses do not include the raising of fur-bearing animals or the processing of or sale of processed produce.
4. **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.
5. **Apartment Building:** A building containing five or more apartments.
6. **Billboard:** Any structure or portion thereof on which lettered, figured or pictorial matter is displayed that has a sign area of 250 square feet or more.
7. **Board of Appeals and Adjustments:** The Town Board serves as the Helga Township

Board of Appeals and Adjustments.

8. **Building:** Any structure having a roof supported by columns or walls built for the support, shelter or enclosure of persons, animals, chattel or property of any kind, including a mobile home.
9. **Conditional Use:** A land use identified in this Ordinance as generally being allowed within a particular zoning district upon the issuance of a conditional use permit by the Town.
10. **Commercial Use:** The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.
11. **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.
12. **Directional Sign:** A sign which provides entrance or on-site circulation information that directs the public to a parcel where a business or use is located.
13. **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
14. **Dwelling Unit:** A structure, or that part of a structure, containing cooking, sleeping, and sanitary facilities, which is used as a home residence by one or more persons maintaining a common household to the exclusion of all others. A camper does not constitute a dwelling unit.
15. **Dynamic Display:** Any characteristic of a sign that appears to have movement or appears to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the image on the sign face to change without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display or structural element and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method of technology that allows the sign face to present a series of images or displays.
16. **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 Statutes, section 462.357.
17. **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.

18. Freestanding Sign: A sign supported permanently upon the ground by poles or braces and not attached to any building.
19. Frontage: The distance along the property line of a lot that directly abuts a public road.
20. Green Space: Open space covered by plants, landscape or other vegetative cover. Green space does not include land covered by or devoted to dwelling units or sites, structures, road rights-of-way, road surfaces, parking areas, sidewalks, or other impervious surfaces.
21. Home Occupation: Any occupation or profession carried on by a member(s) of the family residing on the premises, provided that the use is clearly incidental and secondary to the main use of the premises for dwelling purposes and does not change the character thereof.
22. Identification Sign: A sign attached to or adjacent to a building entrance which is limited to the name and address of the premises being identified.
23. Impervious Surface: A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, septic tank, parking lots, storage areas and concrete, asphalt or gravel surfaces.
24. Incidental Sign: A small sign, emblem or decal informing the public of goods, facilities or services available on the premises (e.g. a credit card sign or a sign indicating hours of business) that does not exceed two square feet.
25. Interim Use: A land use identified in this Ordinance as generally being allowed within a particular zoning district upon the issuance of an interim use permit by the Town. This term also includes certain unnamed temporary uses, but such unnamed uses are not presumed to be generally allowed in any district.
26. Land Use Map: The map adopted by the Town Board, and which is incorporated by reference into this Ordinance, designating the boundaries of the zoning districts.
27. 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.
28. 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.
29. Monument Sign: A freestanding sign that is attached to the ground by means of a freestanding support structure, solid from grade to the top of the sign structure and is typically encased or supported by masonry materials.

30. Multifamily Housing: A building containing two or more dwelling units occupied or intended to be occupied by persons living independently of each other including, but not limited to, duplexes, triplexes, quadplexes, townhouses, apartment buildings, and condominiums.
31. Nonconforming Lot: A lot or parcel lawfully established and of record in the county recorder's office prior to the adoption of an otherwise applicable zoning regulation which does not satisfy the minimum dimensional requirements imposed by the newly adopted or amended regulation.
32. Nonconforming 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 nonconforming use.
33. Off-Premises Sign: A commercial speech sign which directs the attention of the public to a business that is not on the same premises where such sign is located.
34. 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.
35. Permitted Use: A use identified in this Ordinance that may be lawfully established as a matter of right in a particular zoning district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such district.
36. Planning Commission: The Helga Township Planning Commission, which is the planning agency for the Town and whose members are appointed by the Town Board.
37. Premises: A lot, together with all buildings and structures thereon.
38. Religious Institution: A church, synagogue, temple, mosque or other structure that is architecturally designed or particularly adapted for the primary use of the regular assembly of persons for religious worship. Religious institution includes those accessory uses that are secondary to the principal use, but which are intrinsic and necessary to the tenants and exercise of religious beliefs and that can be conducted on the property in a manner that complies with the requirements of applicable federal, state, and local laws, rules, regulations, codes, and ordinances.
39. Retail Centers: Retail Centers mean one or more buildings constructed or renovated to house more than one retail, service, professional, or other businesses operating from substantially separated portions of the building including, but not limited to, shopping centers, strip malls, business centers, and commercial centers. Retail centers have one or more of the following characteristics: the separate spaces of the building are available for lease to, or use by, those other than the owner of the property to operate a business; the building is designed as a single commercial business or a shared entrance to a common area used to access the different businesses; or the building is under a single ownership or management.

40. Right-of-way: All portions of a public roadway, road, street, alley, cartway in which a governmental entity has an interest including those dedicated to the public, but which have not been taken over for maintenance by the Town.
41. Roof Sign: A sign erected upon the roof of a structure to which it is affixed or a sign painted on the roof of a structure.
42. Sign: Any letter, word, symbol, device, poster, picture, statuary, reading matter, or representation in the nature of an advertisement, announcement, message, or visual communication, whether painted, posted, printed, affixed, or constructed which is displayed outdoors for informational or communicative purposes.
43. Sign Area: That area within the marginal lines of the sign surface which bears the announcement, name, advertisement or other message, or, in the case of letters, figures, or symbol attached directly to any part of a building or wall, that area which is included in the smallest rectangle which can be made to circumscribe all letters, the figures, or symbols displayed thereon. The maximum sign area for a freestanding sign refers to a single surface.
44. Setback: A horizontal line from the nearest part of the structure to the appropriate boundary line.
45. Structure: Anything which is built, constructed or erected on the ground or attached to the ground, an edifice or building of any kind, or any piece of work artificially built up or composed of parts jointed together in some definite manner whether temporary or permanent in character, including decks and signs.
46. Subdivision: Any land which is divided or proposed to be divided into two or more lots, parcels, tracts, sites, units, or interests for the purpose of offer, sale or lease.
47. Temporary Sign: A sign that is not designed or intended to be placed permanently, including, but not limited to, portable signs, banners, pennants and inflatables.
48. Town or Township: Means, without distinction, Helga Township, Hubbard County, Minnesota.
49. Town Board: The Board of Supervisors of Helga Township, Hubbard County, Minnesota.
50. 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.
51. Use: The purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained, and which includes the performance of such activity as defined by the performance standards of this Ordinance.
52. Variance: An authorization issued by the Board of Appeals and Adjustments to avoid the literal provisions of this Ordinance where strict enforcement would create practical difficulties for the Owner in its use of its property due to circumstances unique to the

property not created by the Owner.

53. Wall Sign: A sign affixed to the exterior wall, awning or canopy of a building or structure with the exposed face of the sign in a plane approximately parallel to the face of said wall, not to project more than 12 inches from the surface to which it is attached.
54. Window Sign: A sign attached to, placed upon, or painted on the interior of a window that is visible from the exterior of the building, including signs that are placed on the backs of shelving units or similar structures, or interior walls where the sign is located less than seven feet from the window's surface.
55. 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 V **ESTABLISHMENT OF DISTRICTS**

For the purposes of carrying out the provisions of this Ordinance, Helga Township shall have districts designated as Agricultural/Rural Residential, Commercial District C-1, and Commercial District C-2. All land within Helga Township outside the jurisdictional boundaries of a city shall be placed in one of these zoning districts.

SECTION 1. Land Use Map.

The Town Board shall adopt a land use map, which is hereby incorporated into this Ordinance by reference. A copy of this map, showing the location of all zoning districts within Helga Township, is on file with the Town Clerk and can be viewed at the Helga Town Hall. The land use map shall be updated as needed to reflect changes to the boundaries of the zoning districts and such amended land use map shall automatically be incorporated herein upon its adoption by the Town Board.

SECTION 2. Interpretation of Land Use Map.

The most current land use map adopted by the Town Board and on file with the Town Clerk shall be the Town's official land use map. The zoning districts and their boundaries shown on the land use map are conclusive, subject to interpretation by the Land Use Administrator and the Board of Appeals and Adjustments as provided herein.

- A. **District Boundaries:** The location and boundaries of the districts established by this Ordinance are set forth on the 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 boundaries of the Town, 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 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 vacated street or way.

- C. **Interpretation of Boundaries:** An interpretation of the boundaries of a zoning district by the Land Use Administrator may be appealed to the Board of Appeals and Adjustments.

SECTION 3. Allowed and Prohibited Uses.

Only those uses specifically listed in this Ordinance as being allowed within a particular district as a permitted, conditional, interim, or accessory use may occur within that district. All other uses, except those expressly found by the Town Board to be substantially similar to a listed use allowed in the district, are prohibited within the district. No use shall be considered substantially similar to an allowed use unless the Town Board acts at a meeting to find the specific use is substantially similar to an allowed use in the same district as provided herein.

The purpose of prohibiting all uses not listed as being allowed within a district is to protect the public health, safety, and welfare by specifically identifying those uses allowed in a district rather than simply referring to commercial uses generally or attempting to contemplate and list all uses that are prohibited in a district. This approach, coupled with the opportunity for owners to seek a determination from the Town Board that a use is substantially similar to a listed use, allows the Town to maintain a reasonable level of control over the types of uses that may occur in a district while allowing sufficient flexibility to consider and allow substantially similar uses. However, in order to avoid confusion, the Town Board wishes to inform owners and the public that it has found, based on the potential for negative impacts on neighboring owners, the community, and the environment, that certain uses are not appropriate within the Town. Without limiting the general prohibition of uses not listed as being allowed in a district, the following uses are expressly prohibited within all areas of the Town and are not eligible to be found to be substantially similar to an allowed use:

1. Feedlots and/or Livestock Sales;
2. Auto Reduction Yards;
3. Auto and Vehicle Salvage Yards / Junk Yards;
4. Hazardous Waste Facilities;
5. Chemical and Fertilizer Storage Facilities;
6. Refuse / Transfer Stations / Incinerators;
7. Recycling Facilities; and
8. Pressured chemical or gas storage tanks with a capacity of 5,000 gallons or more, unless it is used as the primary heating fuel for a structure on the same lot.

SECTION 4. Substantially Similar Uses.

An owner proposing to undertake a use it believes is substantially similar to a use expressly allowed by this Ordinance in the same district may submit an application to the Town. Such

application shall be on the form supplied by the Town and it must fully explain the proposed use and how it is similar to the allowed use. The Town Board shall act on complete applications to determine whether the proposed use is substantially similar to an allowed use in the same district. If the Town Board does find the proposed use is substantially similar, it shall also determine whether the use shall be deemed a permitted, interim, conditional, or accessory use for the purpose of this Ordinance. The owner must then apply for any required permits based on the Town Board's classification of the use and any other applicable regulations. The Town Board shall maintain a record of all uses it expressly finds to be substantially similar and will make a good faith effort to include those uses in the Ordinance the next time it is amended. If the Town Board finds the proposed use is not substantially similar to an allowed use, the owner may submit a separate application to seek an amendment to the text of this Ordinance to expressly allow the use within a district.

SECTION 5. Temporary Uses.

The Town recognizes there may be uses of a temporary nature that are consistent with the uses expressly allowed within a district, but are not specifically listed in this Ordinance as being allowed. In order to provide a reasonable opportunity for these temporary uses to occur within a regulatory structure that affords the Town an opportunity to determine whether a particular proposed use is appropriate and to place conditions on the use, and notwithstanding the general prohibition contained herein of any use not expressly allowed in a district, the Town may temporarily allow a use by the issuance of an interim use permit if the Town Board determines the use satisfies all of the following criteria:

1. The use is consistent with the uses expressly allowed within the particular zoning district;
2. The use will not unreasonably interfere with, disturb, damage, or otherwise negatively impact adjacent properties, or the health, safety, or welfare of the public;
3. The use is temporary in nature;
4. The date or event on which the use must cease can be identified with certainty;
5. The use will not impose additional costs on the public if it is necessary for the public to take the property in the future;
6. The owner agrees to the conditions the Town places on the use; and
7. Such other criteria the Planning Commission or the Town Board may find relevant to the particular proposal to determine whether the proposed use is appropriate in the particular location and will not interfere with the public health, safety, or welfare.

An owner who believes a proposed use satisfies the above criteria may submit an application for an interim use permit to the Town with the applicable fees. The Town will process the application in accordance with the interim use permit procedures established in this Ordinance. The Planning Commission shall include in its recommendation to the Town Board its findings as to whether the proposed use satisfies the above criteria. The Town Board will make the final decision of whether the proposed use satisfies the criteria, the ending date or event that will terminate the permit, and the conditions imposed on the use. A proposed use that arguably satisfies all of the criteria in this section does create a presumption that the use will be allowed.

ARTICLE VI
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 Town.

B. Agricultural/Rural Residential District Boundaries:

The boundaries of the Agricultural/Rural Residential District includes all land within the boundaries of the Town that is not included in the Commercial District C-1 or the Commercial District C-2.

C. Permitted Uses:

The following uses are allowed in the Agricultural/Rural Residential District without the issuance of a conditional use permit or an interim use permit:

1. Farms and agricultural uses;
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 residences;
4. State licensed residential facilities serving six or fewer persons;
5. Class A home occupations; and
6. Accessory uses and structures to the above principal uses.

D. Interim Uses:

The following uses are allowed in the Agricultural/Rural Residential District with the issuance of an interim use permit by the Town Board in accordance with the provisions of this Ordinance:

1. Class B home occupations.

SECTION 2: Commercial District C-1.

A. Purpose and Intent:

The Commercial District C-1 is established to provide an area, and establish minimum standards and regulations, for commercial uses that can take advantage of the vehicular traffic along the state highway, including potentially more intense commercial uses than are otherwise allowed within the Town. The area so designated will allow certain types of heavy commercial uses and development to occur in an orderly manner so as to ensure a pleasant and suitable environment consistent with the Town's goals.

B. Highway Commercial District Boundaries:

The Commercial District C-1 is a corridor located one-quarter of a mile along each side of Highway 71 from North Plantagenet Road to South Plantagenet Road, as shown on the land use map.

C. Permitted Uses:

Single family residences and related accessory uses and structures are permitted uses in this district, subject to the minimum lot size requirements of this Ordinance. Class A home occupations are also a permitted use in this district. A land use permit may be required to undertake a permitted use.

D. Interim Uses:

The following uses may be allowed in the Commercial District C-1 with the issuance of an interim use permit by the Town Board in accordance with the provisions of this Ordinance:

1. Class B home occupations.

E. Conditional Uses:

The following uses may be allowed with the issuance of a conditional use permit by the Town Board in accordance with the provisions of this Ordinance.

1. Daycare;
2. Cabinet Manufacturer;
3. General Office Purposes;
4. Non-motorized Recreational Area;
5. Commercial Storage Building;
6. Common Area Storage Building;
7. Antique and Collectable Store;
8. Bank;
9. Financial Institution;
10. Bookstore;
11. Funeral Home;
12. Greenhouse;

13. Veterinary Clinic;
14. Automobile Repair;
15. Catering;
16. Coffee Shop;
17. Appliance Sales & Service;
18. Power Equipment Sales & Service;
19. Barber Shop;
20. Beauty Salon;
21. Bicycle Sales & Service;
22. Electronic Sales;
23. Electronic Manufacturing;
24. Interior Decorating;
25. Upholstery;
26. Locksmith;
27. Radio & Television Service / Repair;
28. Picture Framing;
29. Shoe Repair;
30. Tailor;
31. Apparel Sales;
32. Apparel Manufacturing;
33. Electronics Components and Accessories;
34. Film Video and Audio Production;
35. Watches and Clock Manufacturing;
36. Watches and Clock Repair;
37. Wood Crafting and Carving;
38. Wood Furniture and Upholstery Sales / Repair;
39. Art Studio;
40. Bed and Breakfast Home;
41. Contracting Business;
42. Exterminating Business;
43. Firearms Dealer;
44. Small Engine Repair;
45. Limousine Service;
46. Taxicab Service;
47. Board and Care Home;
48. Bakery;
49. Drug Store;
50. Dry Cleaning Pick-up Station;
51. Film Developing;
52. Furniture Store;
53. Jewelry Store;
54. Computer and Accessories;
55. Food and Beverage Products;
56. Medical Goods and Equipment Manufacturer;
57. Medical Goods and Equipment Sales;
58. Printing and Publishing;
59. Art Gallery;

60. Building Material Sales;
61. Child Care Center;
62. Consignment Clothing Store;
63. Temporary Employment Agency;
64. Grocery Store;
65. Laundromat;
66. Memorial Monuments;
67. Office Supplies Sale & Service;
68. Pet Store;
69. Photocopying;
70. Rental of Household Goods and Equipment;
71. Secondhand Goods Store;
72. Shopping Center;
73. Tobacco Shop;
74. Video Store;
75. Office Building;
76. Convenience Store;
77. Automobile Rental;
78. Automobile Sales;
79. Car Wash;
80. Liquor Store;
81. Restaurant / Bar;
82. Delicatessen;
83. Restaurant / Fast Food;
84. Restaurant / Sit Down;
85. Hotel;
86. Indoor Recreation;
87. Radio / Television Station;
88. Reception / Meeting Hall;
89. Regional Sports Arena;
90. Sports Facility;
91. Health Facility;
92. Movie Theater;
93. Theater;
94. Blood / Plasma Collection Facility;
95. Clinic;
96. Medical / dental Laboratory;
97. Ambulance Service;
98. Bus Garage / Maintenance Facility;
99. Package Delivery Service;
100. Recreational Vehicle / RV Rental Facility;
101. Parking Facility;
102. Club / Lodge;
103. Production and Processing;
104. Dry Cleaning Establishment;
105. Furniture Moving and Storage;
106. Industrial Machinery and Equipment Sales / Service;

107. Commercial Laundry;
108. Packaging of Finished Goods;
109. Wholesaling, Warehousing and Distribution;
110. Electric Substation;
111. Regional Financial Service Center;
112. Telephone Exchange;
113. Water Pumping and Filtration Facility; and
114. Retail Centers.

SECTION 3: Commercial District C-2.

A. Purpose and Intent:

The Commercial District C-2 is established to provide an area, and establish minimum standards and regulations, for commercial uses that can take advantage of the vehicular traffic along the state highway, but are uses that are less intense and have fewer potential negative impacts on surrounding properties than certain commercial uses that are more appropriately located in the Commercial District C-1. The area so designated will allow certain types of light commercial uses and development to occur in an orderly manner so as to ensure a pleasant and suitable environment consistent with the Town's goals.

B. Commercial District Boundaries:

The Commercial District C-2 is a corridor located one-quarter of a mile along each side of Highway 71 from South Plantagenet Road to the southern line of Helga Township, as shown on the land use map.

C. Permitted Uses:

Single family residences and related accessory uses and structures are permitted uses in this district, subject to the minimum lot size requirements of this Ordinance. Class A home occupations are also a permitted use in this district. A land use permit may be required to undertake a permitted use.

D. Interim Uses:

The following uses may be allowed in the Commercial District C-2 with the issuance of an interim use permit by the Town Board in accordance with the provisions of this Ordinance:

1. Class B home occupations.

E. Conditional Uses:

The following uses may be allowed with the issuance of a conditional use permit by the Town Board in accordance with the provisions of this Ordinance.

1. Hospice;
2. Convent;

3. Monastery;
4. Religious Institutions;
5. Performing Arts;
6. Visual Arts;
7. Nursing Home / Assisted Living;
8. Inebriate housing;
9. Crisis Center / Supportive Housing;
10. Early Childhood Learning Center;
11. Preschool;
12. School, K-12;
13. Vocational School;
14. Business School;
15. Athletic Field;
16. Community Center;
17. Development Achievement Center;
18. Library;
19. Mission;
20. Museum;
21. Fire Station;
22. Garage for Public Vehicles;
23. Passenger Transit Station;
24. Police Station;
25. Post Office;
26. Residential Dwellings;
27. Daycare;
28. Commercial Storage Building;
29. Common Area Storage Building;
30. Cabinet Manufacturer;
31. General Office Purposes;
32. Non-Motorized Recreational Area;
33. Antique and Collectible Store;
34. Bank;
35. Financial Institution;
36. Bookstore;
37. Funeral Home;
38. Greenhouse;
39. Veterinary Clinic;
40. Automobile Repair;
41. Catering;
42. Coffee Shop;
43. Barber Shop;
44. Beauty Salon;
45. Bicycle Sales and Repair;
46. Electronics Manufacturing;
47. Interior Decorating;
48. Locksmith;
49. Radio and Television Service and Repair;

50. Picture Framing;
51. Shoe Repair;
52. Apparel Manufacturing;
53. Apparel Sales/Repair;
54. Tailor;
55. Electronic Components and Accessories;
56. Film Video and Audio Production;
57. Watches and Clocks Manufacturing;
58. Watches and Clocks Sales / Repairs;
59. Wood Crafting and Carving;
60. Wood Furniture and Upholstery Manufacturing;
61. Wood Furniture and Upholstery Sales / Repair;
62. Art Studio;
63. Bed and Breakfast Home;
64. Contracting Business;
65. Exterminating Business;
66. Firearms Dealer;
67. Small Engine Repair;
68. Limousine Service;
69. Taxicab Service; and
70. Board and Care Home.

ARTICLE VII
GENERAL REGULATIONS/PERFORMANCE STANDARDS

SECTION 1. Dimensional Standards.

Unless specifically indicated otherwise, the following standards shall apply in all zoning districts.

- A. **Lot Size:** The minimum deeded lot size, inclusive of any right-of-ways, including for establishing a single family dwelling, shall be as follows:

Agricultural/Rural Residential	5 acres
Commercial District C-1	5 acres
Commercial District C-2	5 acres

- B. **Lot Width:** In the Commercial C-1 and C-2 Districts, the required minimum lot width shall be 300 feet.
- C. **Lot Frontage Single Family Homes:** A lot shall have at least 75 feet of fronting on a public road and such frontage must be able to accommodate a driveway that is setback from the side of the driveway surface to the nearest side property line at least 15 feet in order to construct a single family home on the lot.
- D. **Lot Frontage Multifamily Housing:** A lot shall have at least 100 feet of fronting on a public road and such frontage must be able to accommodate a driveway that is setback from the side of the driveway surface to the nearest side property line at least 15 feet in

order to construct multifamily housing on the lot.

- E. **Building Height:** A maximum building height of 35 feet is allowed.
- F. **Building Width:** Any building constructed or placed after the effective date of this Ordinance that is intended to serve, or that is used, as a dwelling unit shall have a minimum width of at least 16 feet throughout the entire length of the building. A porch, entryway, overhang, deck, awning, eave, or other attachment to such building cannot be included into the calculation of the 16 feet minimum width requirement of this paragraph.
- G. **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. Where lots have double frontage, the required setback shall be provided on both roads.

District	Front Setback	Rear Setback	Side Setback
Agricultural/Rural Residential	50 feet	50 feet	50 feet
Commercial District C-1	75 feet from state highway / 50 feet from county or town road	30 feet	30 feet
Commercial District C-2	75 feet from state highway / 50 feet from county or town road	30 feet	30 feet

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.

SECTION 2. Multifamily Housing.

The following regulations/requirements shall apply to all future multi-family development:

1. Minimum lot size of 5 acres inclusive of road right-of-way per dwelling unit in the Agricultural/Rural Residential District;
2. Must maintain a minimum of 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, shall be provided;
5. Lighting must not interfere with traffic and/or neighbors;
6. Separate parcels must be combined into one contiguous deeded tax parcel;

7. All multifamily housing must meet or exceed all applicable codes;
8. Each building must have public road access;
9. Property owners are responsible for building upkeep and maintenance; and
10. An onsite sewage treatment system permit must be obtained from Hubbard County before a land use permit is issued.

SECTION 3. Home Occupations.

All home occupations established on or after the effective date of this Ordinance shall comply with the requirements of this Section.

- A. **Purpose:** It is the purpose of this Section to provide for the use of the home as a place for the operation of a business or profession either as an interim use or a permitted use, provided the occupation is clearly secondary to the principal use of the dwelling as a residence.
- B. **Class A Home Occupations:** Class A home occupations are those which only employ persons residing within the home and do not require additional employees, separate employee or customer parking, does not utilize an accessory building, and does not generate a noticeable increase in traffic, noise or odor. Such home occupations as architects, artists, clergymen, clothing alterations, domestic crafts making, and similar uses shall be classified as Class A home occupations. Class A home occupations are permitted uses in the Agricultural/Rural Residential District, and do not require an Interim Use Permit under this Ordinance.
- C. **Class B Home Occupations:** Class B home occupations are those which have the potential for generating a noticeable increase in traffic, noise, odor, or requires additional parking, involves employees not residing in the home, or utilizes an accessory building. Home occupations such as barber shops, beauty salons, repair shops, light manufacturing, clothing shops, bed-and-breakfast inns, museums, animal hospitals, kennels, dog care centers, schools, and similar uses conducted within a dwelling or accessory structure shall be classified as Class B home occupations. Class B home occupations are classified as an interim use in the Agricultural/ Rural Residential District and shall require an Interim Use Permit from the Town.
- D. **Performance Standards:** All home occupations shall conform to the following standards:
 1. Conducting the home occupation shall not require alterations to the interior or exterior of the residence which substantially alters the appearance of the dwelling as a residence. However, the entrance to the space devoted to a home occupation may be within the dwelling; and
 2. One single or double-faced unlit sign with a maximum surface area of 4 square feet per side may be permitted.

SECTION 4. Development in Commercial Districts.

All development in the Commercial C-1 or C-2 Districts shall comply with this Section.

- A. **Commercial Development:** Structures built within the Commercial C-1 or C-2 Districts shall be constructed or erected upon a permanent foundation.
- B. **Site Plan:** An application to build a new structure, or expand an existing structure, in the Commercial C-1 or C-2 Districts shall include a Certificate of Survey prepared by a licensed surveyor showing the location of all existing structures on the property as well as the new or expanded structure.
- C. **Retail Centers:** Because retail centers involve multiple businesses that may change over time located on the same parcel of property, the typical process of requiring each business to apply for an obtain a conditional use permit from the Town would be burdensome and could unnecessarily result in multiple conditional use permits being issued for the same property. As such, the Town determines to grant certain amount of flexibility for retail centers from the typical permitting process as follows. Retail centers are subject to, and shall comply with, the following standards:
 - 1. No building or structure may be used as a retail center without first obtaining a conditional use permit from the Town. The conditional use permit may specifically identify or limit the types of businesses allowed within the retail center. The applicant shall submit a business plan with its application for a conditional use permit describing the types of businesses it intends to operate or allow others to operate within the building;
 - 2. Only those uses expressly allowed by this Ordinance in the Commercial District C-1, and those uses expressly found by the Town Board to be a substantially similar use to an allowed use in the Commercial District C-1, as provided in this Ordinance, may occur within a retail center. The conditional use permit issued for a retail center may limit the types of businesses that may be located within the building and may list businesses that are allowed without having to apply for or otherwise obtain a separate conditional use permit or interim use permit from the Town, provided a site plan for the portion of the building to be occupied by the use is submitted to the Town before it is commenced. Otherwise, any business allowed within the district may be located within the building without having to obtain a separate conditional use permit, but shall be required to obtain an interim use permit from the Town. Issuing interim use permits for these businesses, rather than conditional use permits, allows the Town to evaluate and place conditions on the particular business as it determines are needed to address the potential impacts of the business on the community, recognizes the potential that the businesses within the retail center may change over time, and avoids the potential of issuing multiple conditional use permits for the same property; and
 - 3. All uses occurring on the property shall comply with the terms, conditions, and limitations of the conditional use permit issued for the retail center, any other applicable permits or permissions issued for the particular use, and this Ordinance.

SECTION 5. General Performance Standards.

- A. **Parking Standards:** The following performance standards related to parking shall be complied with in addition to any other parking requirements the Town may include as a condition on a conditional use or interim use permit:
1. The following minimum number of parking spaces shall be provided:
 - a. Two parking spaces per dwelling unit;
 - b. One and a half spaces per each motel or hotel unit;
 - c. One space per 3 seats in the general assembly room of religious institutions, schools, and other assembly places;
 - d. One space per 200 square feet of office space;
 - e. One space per 200 square feet of retail space; and
 - f. One space per 3 seats in restaurants.
 2. The minimum size required for a parking space is 9 feet x 18 feet;
 3. Parking lots shall be setback at least 15 feet from a property line;
 4. Temporary parking may be conditionally permitted in a building setback area, except not in the first twenty (20) feet of setback abutting a road right-of-way; and
 5. All required parking spaces shall be provided on the same lot as the principal structure unless expressly allowed otherwise in a conditional use or interim use permit issued for the property.
- B. **Sanitary Specifications:** Every dwelling shall have a sewage disposal system that meets all applicable requirements of the State and Hubbard County.
- C. **Essential Services:** The erection, construction, alteration or maintenance of essential services, including, but not limited to power lines, telephone lines, sewer, water, gas, and cable TV is a permitted use in every district, subject to applicable laws and ordinances related to the placement of facilities in public right-of-ways. To the extent technologically feasible, essential services shall, to the greatest extent reasonable possible, be located underground so as to eliminate overhead wires, poles, and other unsightly structures and equipment.
- D. **Excavation of Mineral Materials:** The use of land for the excavation and removal of mineral materials, top soil or gravel is not permitted within the Town unless done pursuant to an interim use permit. As a condition of granting the interim use permit, the Town 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 Town may require a performance bond, require the construction of roads and other conditions as it deems appropriate.

- E. **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.
- F. **Land Use Permit Required:** A land use permit shall be required as provided in Article X, Section 5 of this Ordinance.
- G. **Setbacks:** All decks, buildings, structures, and additions shall meet minimum setback requirements.

SECTION 6. Signage Standards.

- A. **Findings:** The Town Board hereby finds as follows:
 - 1. Exterior signs have a substantial impact on the character and quality of the environment;
 - 2. Signs provide an important medium through which individuals may convey a variety of messages;
 - 3. Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare; and
 - 4. The Town's zoning regulations have included the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the Town and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community. The regulation of the physical characteristics of signs within the Town has had a positive impact on traffic safety and the appearance of the community.
- B. **Purpose and Intent.** It is not the purpose or intent of this Ordinance to regulate the message displayed on any sign, to regulate any building design or any display not defined as a sign, or to regulate any sign which cannot be viewed from outside of a building. The purpose and intent of this Ordinance is to:
 - 1. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the Town in order to promote the public health, safety and welfare;
 - 2. Maintain, enhance and improve the aesthetic environment of the Town by preventing visual clutter that is harmful to the appearance of the community;

3. Improve the visual appearance of the Town while providing for effective means of communication, consistent with constitutional guarantees and the Town's goals of public safety and aesthetics; and
 4. Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the Town.
- C. **Effect.** A sign may be erected, mounted, displayed or maintained in the Town if it is in conformance with the provisions of this Ordinance. The effect of this Ordinance, as more specifically set forth herein, is to:
1. Allow a wide variety of sign types in commercial zoning districts, and a more limited variety of signs in other zoning districts, subject to the standards set forth in these regulations;
 2. Prohibit signs whose location, size, type, illumination or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having a lesser impact on the environment and the public health, safety and welfare; and
 3. Provide for the enforcement of the provisions of these regulations.
- D. **Message Substitution.** The owner of any sign which is otherwise allowed by this Ordinance may substitute a non-commercial message in lieu of any other commercial or non-commercial message. This substitution of message may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.
- E. **Permit Required.** Unless otherwise exempted by this Ordinance, no sign shall be constructed, installed, erected, altered, reconstructed or relocated in the Town without first securing a permit as required by this Ordinance. Applications are subject to a permit fee, as established by the Town Board.
1. An application for a sign permit shall be in writing addressed to the Land Use Administrator and shall, at a minimum, contain the following information:
 - a. Name, address and telephone number of the applicant;
 - b. The address of the property at which the sign is to be placed and the street on which it is to front;
 - c. A site plan drawn to scale showing the location of lot lines, all existing and proposed structures, parking areas, existing and proposed signs and any other physical features;
 - d. A detailed drawing of the proposed sign including height, description of the sign structure, materials to be used, including colors and method of attachment to the building, if applicable;

- e. The name of the person or entity erecting the sign, if not the applicant, or the name of the person on whose property the sign is to be located, if not the applicant;
 - f. The written consent of the owner of the property, if not the applicant;
 - g. A statement as to whether the sign will be illuminated or if the sign will contain any type of dynamic display;
 - h. A statement as to whether the sign will be single-faced, double-faced or multi-faced;
 - i. Certification by applicant indicating the application complies with all requirements of this Ordinance;
 - j. If the proposed sign is along a state trunk highway or an interstate highway, the application shall be accompanied by proof that the applicant has obtained a permit from the state for the sign; and
 - k. Such other information as the Land Use Administrator may be required to show compliance with this Ordinance and all other applicable laws, ordinances and regulations.
2. Upon the filing of a complete permit application, the Land Use Administrator shall review the application materials submitted. If the proposed sign complies with this Ordinance and all other applicable laws, ordinances and regulations, the Land Use Administrator shall issue the permit for the sign. The permit shall be valid for the life of the sign. If the Land Use Administrator determines that all requirements for approval have not been met, he or she shall promptly notify the applicant in writing of that fact and deny the sign permit application.

F. General Sign Location, Design and Construction Requirements.

1. General requirements. All signs shall conform to the requirements of this Section whether or not a sign permit is required. All signs shall be properly secured, supported and braced and shall be kept in good repair so that public safety and traffic safety are not compromised. Signs visible from a street shall be designed to be highly legible so as to not distract drivers.
2. Maintenance. All signs shall be properly maintained. The area on the property around the sign shall be properly maintained and clear of brush, weeds, debris, rubbish and other obstacles. All burned-out light bulbs or damaged panels on a sign shall be immediately replaced. Exposed surfaces must be kept clean and painted if paint is required. Defective or broken parts must be immediately replaced. The Land Use Administrator shall order the repair or removal of any sign which is broken, damaged or substantially deteriorated.
3. Sign Copy. All sign copy must be fastened securely to the sign face and maintained on a regular basis. Any missing sign copy must be replaced

immediately. Any sign copy that is outdated must be removed.

4. Location. No sign shall be located so as to obscure any existing sign. No sign other than a sign placed by authorized government officials shall be erected or temporarily placed within any street right-of-way, public property or upon any public easement. No sign shall be attached or placed upon any building in such a manner as to obstruct any window or door or fire escape.
5. Illumination. Illuminated signs, if permitted by this Ordinance, shall be backlit or indirectly lit and shall avoid direct casting of light upon properties located in the Agricultural-Rural Residential District, upon public waters or onto any public right-of-way. Illuminated signs are subject to the electrical requirements of the electrical code of the State of Minnesota.

G. **Exemptions.** The following types of signs do not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this Ordinance or any other law or ordinance regulating the same.

1. Signs posted by authorized government officials on public land, easements or right-of-way;
2. One sign five square feet or less in sign area (excluding temporary signs) may be posted on any parcel of land, except that such sign shall not be an off-premises sign and shall not be illuminated or contain any dynamic display;
3. Identification signs of two square feet in sign area or less;
4. Signs within a business, office, mall or other enclosed area that cannot be seen from the outside;
5. Incidental signs that are two square feet in sign area or less;
6. Flags containing non-commercial speech only. Flags may be illuminated, provided that the illumination source is directed toward the flag and is not able to be seen from any adjacent public roadway or residential use;
7. Signs permitted by Minnesota Statutes, Section 211B.045 (relating to noncommercial signs);
8. Handicapped parking signs;
9. Window signs;
10. Holiday decorations;
11. Wall or building art;

12. Signs of any size on vehicles traveling or lawfully parked on operating and insured vehicles, construction trailers or equipment which are temporarily parked on a permitted construction site or primary business location;
13. Outdoor scoreboards in athletic stadiums that do not include dynamic displays;
14. Static signs or banners adorning fences located in permitted outdoor recreational facilities, provided they are placed so as to only be viewed internal to the play field area and are not placed so as to orient a commercial message toward an adjacent public road right-of-way;
15. On-premise directional signs without business identification are permitted in parking lots or driveways of properties containing a multi-family residential use or in parking lots or driveways of properties located in a commercial district. Said signs shall not exceed a total of four square feet in sign area. Said signs shall not exceed five feet in height, unless they are placed on a building. Said signs shall not be illuminated;
16. One off-premises directional sign per avenue or block leading to a commercially zoned property that has a driveway that has been permanently closed by a road authority and for which no reasonable direct access remains, as determined by the Board. Said sign shall not be illuminated and shall not exceed two square feet in sign area and eight feet in height. No more than three off-premise directional signs shall be located on a single parcel;
17. Bench signs located at bus stops, adjacent to sidewalks, and located on other public and private resting places. Said sign shall not exceed four square feet in sign area;
18. Temporary exterior signs that are attached to or adjacent to an item accompanying its exterior display, not to exceed one square foot in sign area;
19. One freestanding sign shall be permitted upon a construction site in any zoning district. The sign shall not exceed 32 square feet in sign area and shall be set back at least 10 feet from the right-of-way. The sign shall not be illuminated. The sign must be removed upon completion of the construction site improvements; and
20. A parcel located in a commercial zoning district may display a single temporary sign that does not exceed 32 square feet in sign area no more than a total of 30 days within a calendar year without having to obtain a sign permit. Sign permits are required for temporary signs that are to be displayed for more than 30 days within a calendar year, multiple temporary signs and temporary signs located in non-commercial zoning districts.

H. **Prohibited Signs.** Unless otherwise specifically permitted by this Ordinance, the following types of signs shall be prohibited within the Town:

1. Abandoned signs;

2. Billboards;
3. Roof signs;
4. Signs that emit sound;
5. Off-premises signs;
6. Illuminated signs giving off an intermittent or rotating beam of light;
7. Signs painted directly on the outside wall or face of a building, fence, rock, or similar structures or features; and
8. Signs containing any type of dynamic display.

I. **Agricultural/Rural Residential District Signs.** The following signs are permitted in the Agricultural/Rural Residential District with the issuance of a sign permit. No sign in the Agricultural/Rural Residential District shall exceed six feet in height. All signs shall be set back at least 15 feet from any right-of-way.

1. Home occupations are allowed no more than one sign not to exceed four square feet in sign area. The sign must be located in the front yard or the side yard. Home occupation signs shall not be illuminated;
2. Permitted non-residential uses, including churches, schools, etc. are allowed one freestanding sign per street frontage, not to exceed 32 square feet in sign area. One wall sign of 32 square feet in sign area is also allowed per street frontage. Said sign may be illuminated; and
3. Residential subdivisions are allowed one monument sign per entrance. The sign area shall be no greater than 32 square feet. The perimeter around the base of the sign shall be landscaped.

J. **Commercial District (C-1) Signs.** The following signs are permitted in the Commercial District (C-1) with the issuance of a sign permit, unless otherwise stated. No sign shall exceed 30 feet in height. All signs shall be set back at least 15 feet from any right-of-way. Side yard setbacks shall be a minimum of 10 feet.

1. Wall, Monument and Freestanding Signs. One wall sign is permitted for each building face and street frontage. One freestanding or monument sign is permitted per parcel. Parcels that are 10 acres in size or larger, with two driveways on separate street frontages may have two freestanding or monument signs. Said signs may be illuminated.
2. The total allowable wall and freestanding sign area for parcels with single tenant building occupancy is as follows:
 - a. Wall sign area is limited to a maximum of four percent of the building's total wall elevation square feet, not to exceed 250 square feet; and

- b. Freestanding or monument sign area is limited to 125 square feet.
 - 3. The total allowable sign area for parcels with multi-tenant building occupancy is as follows:
 - a. Wall sign area is limited to a maximum of four percent of the building's total wall elevation square feet per street frontage. Each individual tenant may have one wall sign if a sign plan is submitted to the Zoning Administrator. No individual tenant shall have a wall sign that exceeds 250 square feet in sign area; and
 - b. Freestanding or monument sign area is limited to 150 square feet for static identification signage.
- K. **Commercial District (C-2) Signs.** The following signs are permitted in the Commercial District (C-2) with the issuance of a sign permit, unless otherwise stated. No sign shall exceed 30 feet in height. All signs shall be set back at least 15 feet from any right-of-way. Side yard setbacks shall be a minimum of 10 feet.
 - 1. Wall, Monument and Freestanding Signs. One wall sign is permitted for each building face and street frontage. One freestanding or monument sign is permitted per parcel. Parcels that are 10 acres in size or larger, with two driveways on separate street frontages may have two freestanding or monument signs. Said signs may be illuminated.
 - 2. The total allowable sign area for parcels with single tenant building occupancy is as follows:
 - a. Wall sign area is limited to a maximum of four percent of the building's total wall elevation square feet, not to exceed 250 square feet in sign area; and
 - b. Freestanding or monument sign area is limited to 125 square feet.
 - 3. The total allowable sign area for parcels with a multi-tenant building occupancy is as follows:
 - a. Wall sign area is limited to a maximum of four percent of the building's total wall elevation square feet per street frontage. Each individual tenant may have one wall sign if a sign plan is submitted to the Town Board. No individual tenant shall have a wall sign that exceeds 250 square feet in sign area; and
 - b. Freestanding or monument sign area is limited to 150 square feet.
- L. **Enforcement.** Any person who violates any provision of this Ordinance shall receive a notice of the violation by hand delivery or mail indicating that he or she must correct the violation within 10 days of the date of the notice. Any person convicted of violating this Ordinance shall be guilty of a misdemeanor and shall be subject to a fine or imprisonment as specified by state statute. Each day in which a violation continues to

occur shall constitute a separate offense. Violation of any provision of this Ordinance shall also be grounds for revocation of a sign permit by the Town Board.

ARTICLE VIII **SUBDIVISION OF LANDS**

SECTION 1. Restrictions.

No subdivision of land in the Town shall be allowed unless it is done in accordance with the laws of the State of Minnesota, the Hubbard County Ordinances, and this Ordinance.

SECTION 2. Administrative Subdivisions.

Owners subdividing property pursuant to the Administrative Subdivision procedure as set out in Section 4 of the Hubbard County Subdivision Ordinance (Ord. No. 35) must obtain approval for the subdivision from the Town to ensure the proposed division does not result in a violation of the provisions of this Ordinance. To seek approval, the owner shall submit to the Town a copy of the completed County application and related materials required under by the County's ordinance. The Town may require the owner to submit additional information as needed to assist the Town to fully understand and evaluate the proposed subdivision. The Township Planning Commission shall review the materials and make a recommendation to the Town Board regarding the proposed Administrative Subdivision. If directed by the Town Board, the Planning Commission will hold a public hearing, preceded by at least ten days' published notice, on the proposed administrative subdivision before making its recommendation. The Town Board will then take final action on whether to approve the proposed Administrative Subdivision. The Town will provide the owner notice of its decision. If the Town Board denies the Administrative Subdivision, it will provide a written explanation of the reasons for the denial. No Administrative Subdivision shall be allowed if it would result in the creation of a nonconforming lot.

SECTION 3. Platted Subdivisions.

Owners subdividing property pursuant to the Platting procedure as set out in Section 5 of the Hubbard County Subdivision Ordinance (Ord. No. 35) must obtain approval for the plat and otherwise comply with the provisions of this Section.

- A. **Preliminary Plat Approval.** Pursuant to Minnesota Statutes, section 505.09, subdivision 1a, the County is prohibited from approving a plat of land within the Town unless the Town Board first approves the laying of the streets and other public ways shown on the plat. To seek approval, the owner shall submit to the Town a copy of the completed County application and related materials required under by the County's ordinance for the preliminary plat. The application materials shall be submitted to the Town before the owner seeks final plat approval from the County. The Town may require the owner to submit additional information as needed to assist the Town to fully understand and evaluate the proposed preliminary plat. The Township Planning Commission shall review the materials and make a recommendation to the Town Board regarding the proposed preliminary plat. If directed by the Town Board, the Planning Commission will hold a public hearing on the proposed preliminary plat before making its recommendation. The hearing shall be preceded by at least ten days' published notice. The Town Board will review the recommendation of the Township Planning Commission

and decide whether to approve the preliminary plat. If the Town Board denies the preliminary plat, it will provide a written explanation of the reasons for the denial. The Town Board's approval of the preliminary plat does not constitute approval of the plat as required by Minnesota Statutes, section 505.09, subdivision 1a. No such approval can be obtained until the final plat is presented to the Town Board for approval.

- B. **Final Plat Approval.** The owner shall submit its final plat to the Town for review and approval by the Town Board. The Township Planning Commission shall review the materials and make a recommendation to the Town Board regarding the proposed final plat. If directed by the Town Board, the Planning Commission will hold a public hearing on the proposed final plat before making its recommendation. The hearing shall be preceded by at least ten days' published notice. The Town Board will review the recommendation of the Township Planning Commission and decide whether to approve the final plat. The Town Board may condition its approval on the Owner entering into a development agreement or road agreement with the Town. If the Town Board denies the final plat, it will provide a written explanation of the reasons for the denial. A vote by the Town Board approving the final plat shall authorize the chairperson and clerk to sign the final plat documents once they are prepared.

SECTION 4. Roads and Easements Dedicated by Plat. The Town Board's approval of a plat containing roads or other ways or easements dedicated to the public does not constitute a decision by the Town to open and maintain those roads, ways, or easements. The approval is limited to the plat itself and separate approval by the Town Board is required before the Town will open and maintain any platted roads as part of its system of publicly maintained town roads. It is the responsibility of the person subdividing the property to construct and pay for all roads, stormwater ponds and other drainage structures, and other improvements within those lands dedicated to the public in accordance with the Town's specifications and requirements as a condition of plat approval. The Town may require a development or road agreement to provide further details regarding the required improvements and identify the procedures and conditions under which the Town will be willing to open and maintain a platted road as part of its system of publicly maintained town roads. It is the responsibility of the developer or those who own property within the plat to maintain a platted road until the Town Board determines by resolution that it is sufficiently built and satisfies such other conditions of acceptance the Town Board may require to be opened and maintained as part of the Town's system of publicly maintained town roads.

ARTICLE IX **NONCONFORMING USES, STRUCTURES, AND LOTS**

SECTION 1: Nonconforming Uses and Structures.

- A. **Allowed to Continue:** Any use or structure lawfully existing prior to the effective date of this Ordinance, or subsequent amendment which made the use or structure nonconforming, may be continued, including through repair, replacement, restoration, maintenance, or improvement, at the size and in the manner of operation existing upon such date, subject to the following conditions:
1. A nonconforming use or structure shall in no way be expanded, enlarged or extended either on the same property or onto an adjoining lot of record except as expressly allowed in this section. Prohibited expansion, enlargement, or

extension shall include anything that increases the intensity of the use including, but not limited to, a change to a more intense nonconforming use or a physical expansion of the existing use that increases the height, volume and/or area dimensions of the nonconforming use. The Town Board may allow an expansion or extension of a nonconforming structure without a variance if the expansion or extension does not increase the nonconforming aspect of the structure. To the extent the expansion or enlargement of a nonconforming principal or accessory structure is allowed by this section, no such expansion or enlargement may occur except upon issuance of the appropriate permits and provided that the use of the property conforms to the zoning district regulations, that the expansion or enlargement meets current zoning district regulations, and no other nonconformities are created; and

2. Routine maintenance of a structure containing or relating to a lawful nonconforming use is permitted, including any necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use. Nothing in this section prevents the placing of a structure into a safe condition after it has been declared unsafe by the Town.
- B. **Alterations:** Alterations may be made to a building containing nonconforming dwelling units when the alterations will improve the livability of such units, provided that such alterations do not increase the number of dwelling units in the building. Such alterations must be approved by the Town.
- C. **Damaged:** Whenever a nonconforming structure or use is damaged by fire, collapse, flood, explosion, earthquake, war, riot, act of God or public enemy or to the extent of 50 percent or less of its estimated market value as indicated in the assessor's records at the time of damage, it may be reconstructed upon receipt of all required permits. The nonconforming structure or use shall not be permitted to be reconstructed if the damage is greater than 50 percent of the estimated market value as indicated in the assessor's records at the time of damage and no zoning permit has been applied for within 180 days of when the property was damaged. If a permit is applied for within 180 days, the Town may impose reasonable conditions upon any such zoning permit it may issue in order to mitigate any newly created impact on adjacent property.
- D. **Replaced Use or Structure:** When any lawful nonconforming use of any structure or land is replaced by another use or structure, the new use or structure must conform to the provisions of this Ordinance and it shall not thereafter be changed to any nonconforming use or structure.
- E. **Discontinued:** If the nonconforming use of land is discontinued for a period of twelve (12) months, the subsequent use of the land or the structure shall be in conformity with the provisions of this Ordinance.
- F. **Public Nuisances:** Nonconforming uses or structures which are declared by the Town to be public nuisances shall not be allowed to continue as legal nonconforming uses or structures.
- G. **Nonconformities in Floodplains:** No repair, replacement, maintenance, improvement, or expansion of a nonconforming use or structure in a floodplain area shall be allowed if such activity would jeopardize the property's continued eligibility in the National Flood

Insurance Program, would increase flood damage potential, or would increase the degree of obstruction to flood flows in the floodway.

- H. **Nonconformities in Shorelands:** Shoreland areas are regulated by the County and nonconforming shoreland lots are subject to the provisions of the County ordinance addressing nonconformities.

SECTION 2: Nonconforming Lots.

- A. **Lots of Record:** All lots of record, existing as of the date of this Ordinance and all prior zoning ordinances in the Town, that do not meet the minimum lot area and lot width requirements, may be allowed as building sites without a variance from lot size or width requirements provided that it satisfies all of the following:
1. The use is permitted in the district;
 2. The lot was created compliant with official controls in effect at the time.
 3. The setback requirements of this Ordinance are met; and
 4. The applicable ISTS/SSTS regulations are met.

SECTION 3: Nonconforming Signs: Any sign legally existing at the time of passage of this Ordinance that does not conform to the provisions of this Ordinance shall be considered a legal nonconforming sign and may be continued through repair, replacement, restoration, maintenance, or improvement but not including expansion. "Expansion" shall be defined as any structural alteration, change or addition that is made outside of the original sign structure, sign area or design.

- A. Nothing in this Section shall prevent the return to a safe condition of a sign structure that has been declared unsafe by the Town's Land Use Administrator;
- B. When any legal nonconforming sign is discontinued for a period of more than one year, or is changed to a conforming sign, any future sign must be in conformity with the provisions of this Ordinance; and
- C. Any legal nonconforming sign must be removed and must not be repaired, replaced or rebuilt if it is damaged by fire or other peril to the extent of greater than 50 percent of its estimated market value at the time of destruction and no sign permit or land use permit (if applicable) has been applied for within 180 days of the date of destruction.

ARTICLE X **ADMINISTRATION**

SECTION 1: Helga Township Planning Commission.

- A. **Established.** The Town Board previously established the Helga Township Planning Commission, which is hereby reaffirmed as the Town's planning agency. The Planning

Commission serves in an advisory capacity to the Town Board.

- B. **Composition.** The Commission consists of up to five voting members, which may include one or more Town officers. A majority of members constitutes a quorum to conduct the Commission's business. Each Commission member, including the Chair and Vice-Chair, shall have one vote on all matters acted upon by the Commission. A member must be present at a meeting to vote.
- C. **Appointment, Vacancies and Removal.** The Town Board appoints the Planning Commission members. Vacancies occurring on the Planning Commission are filled by Town Board appointment for the remainder of the term of the position.
- D. **Term.** Planning Commission members are appointed for a term of 3 years and until a successor is appointed and qualifies. Terms expire on April 1st. Commission members serve at the pleasure of the Town Board and may be removed by the Town Board at any time. The Town Board shall stagger the terms of Planning Commission members as it determines is appropriate to minimize the number of Planning Commission positions expiring in the same year.
- E. **Officers and Duties.** The Planning Commission shall appoint from among its members a Chair, Vice-Chair, and a Secretary. The Chair shall be the presiding officer for Commission meetings and shall sign documents on behalf of the Commission as needed. The Vice-Chair shall conduct the duties of the Chair in the Chair's absence. The Secretary shall provide notices, keep records of the Commission's proceedings, and countersign the Chair's signature on Commission documents.
- F. **Compensation.** The Town Board shall determine if members will be compensated for their service on the Planning Commission, determine the amount of compensation if provided, and the policy for reimbursing expenses incurred in carrying out the Planning Commission's duties.
- G. **Rules and Procedures.** The Planning Commission may adopt rules and procedures related to how it conducts its meetings and hearings, provided such rules and procedures are consistent with the provisions of this Ordinance and applicable laws.
- H. **Meetings.** The Planning Commission shall hold regular meetings as needed. The Chair or Vice-Chair, along with the consent of at least one other Planning Commission member, may call special meetings as needed to conduct the Planning Commission's business.
- I. **Planning Commission Powers and Duties.** The Planning Commission shall have the powers and duties provided it by Minnesota Statutes, chapter 462, those indicated in this Ordinance, and such other powers and duties as the Town Board may delegate to it. Unless directed otherwise by the Town Board, the Planning Commission shall be responsible for conduct such hearings as may be required by law or by ordinance to implement and administer the Town's official controls. The Planning Commission does not have the authority to hire professionals or to otherwise bind the Town to a contract.

SECTION 2: Helga Township Board of Appeals and Adjustments.

- A. **Established.** The Town Board shall serve as the Helga Board of Appeals and Adjustments.
- B. **Rules and Procedures.** The Board of Appeals and Adjustments may adopt rules and procedures related to how it conducts its meetings and hearings, provided such rules and procedures are consistent with the provisions of this Ordinance and applicable laws.
- C. **Meetings and Hearings.** The Board of Appeals and Adjustments will hold meetings and hearings as needed to conduct its duties. Meetings of the Board of Appeals and Adjustments may be held as part of the regular or special meetings of the Town Board.
- D. **Board of Appeals and Adjustments Powers and Duties.** The Board of Appeals and Adjustments shall have the following powers and duties:
 - 1. 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;
 - 2. To hear and decide appeals. Appeals shall only be heard and considered in conformance with the procedures prescribed in this Ordinance; and
 - 3. To interpret the provisions of this Ordinance and of any district boundary on the land use map.

SECTION 3: Land Use Administrator.

- A. **Established.** The position of Land Use Administrator is hereby established. The Town Board shall appoint the person to serve as the Land Use Administrator and such person shall serve at the pleasure of the Town Board. The Town Board, or its designee, shall serve as the Land Use Administrator in the absence or disability of that person until the person returns or a new person is appointed to the position.
- B. **Duties.** The Land Use Administrator shall have the following duties, which shall be conducted in a manner which is consistent with this Ordinance, applicable laws, and the directions and instructions of the Town Board:
 - 1. Enforce and administer the provisions of this Ordinance;
 - 2. Determine whether a permit application is complete and complies with the terms of this Ordinance;
 - 3. Receive, and forward to the Planning Commission, Board of Appeals and Adjustments, or Town Board applications and other zoning materials as is appropriate;
 - 4. Issue permits once they have been approved as provided in this Ordinance;

5. Issue notices of denial to applicants;
 6. Maintain permanent and current records of permits and approvals issued pursuant to this Ordinance, including, but not limited to, land use map changes, amendments to this Ordinance, issuance of conditional use permits, interim use permits, variance approvals, and appeals;
 7. Conduct inspections to determine compliance with the provisions of this Ordinance and institute in the name of the Town, any appropriate actions or proceedings against a violator as provided by this Ordinance or law;
 8. Serve as an ex-officio member of the Planning Commission;
 9. Collect all fees required by this Ordinance and pay the same to the Town;
 10. Track the application of the 60 day rule to land use requests, provide notices to applicants as may be needed, and to keep the Town informed of the applicable deadlines for actions with respect to individual land use requests;
 11. File for record with the Hubbard County Recorder or Registrar of Titles all documents required to be filed by law;
 12. To enforce this Ordinance, including through the issuance of violation notices, cease and desist orders, or corrective orders as determined appropriate, and to work with the Town Attorney as needed to administer and enforce this Ordinance; and
 13. To perform such other duties and responsibilities as provided in this Ordinance or as assigned by the Town Board.
- C. **Delegation of Authority.** The Town Board hereby delegates to the Land Use Administrator the authority to carry out the duties assigned to that person as provided in this Ordinance or as delegated by the Town Board including, but not limited to, the authority to determine if an application is complete and to notify an applicant of what information is needed in order to make an application complete.

SECTION 4: Fees.

- A. **Application Fee.** Applicants shall be required to pay an application fee when submitting an application under this Ordinance. Application fees shall be in the amount determined by the Town Board and are intended to defray the administrative costs of processing requests. Application fees submitted as part of a complete application are not refundable, regardless of whether the application is approved, denied, or withdrawn;
- B. **Escrow.** In order to defray the additional costs the Town may incur to process a request made under this Ordinance, applicants may also be required to reimburse the Town for all consulting costs it incurs related to the particular request. Consulting costs include, without limitation, all attorney, planner, and engineering fees incurred related to the request. An applicant may be required to escrow cash with the Town in the amount determined by the Town Board or Land Use Administrator from which the Town will reimburse itself for the consulting costs it incurs. The applicant remains responsible for

all such costs and shall promptly escrow additional funds if the Town Board or Land Use Administrator determines the existing escrowed amount will not be sufficient to fully reimburse the Town for its costs. Failure to promptly provide additional funds or to otherwise fully reimburse the Town for its consulting cost shall be a sufficient basis on which to delay the processing of a request or to deny a request.

- C. **Reimbursement in Full Required.** Upon the termination of the application, by an approval, denial, withdrawal, or any other means, all costs incurred by the Town shall be immediately payable by the applicant. If no escrow was required, or if the Town's costs exceed the escrowed amount, the Town will provide the applicant a written statement of the amount to be reimbursed. The stated amount shall be paid in full to the Town within 30 days from the date of the written statement. If the escrowed amount exceeds the Town's costs, the excess shall be refunded to the applicant. No permits shall be issued, no construction or development shall commence, and no use of the property pursuant to the zoning request shall be made until all fees and costs are paid in full. In the event that payment of costs is not made within a reasonable time after demand, the Town Board or Zoning Administrator may take such steps as are available to the Town under law to collect the unreimbursed amounts, including collection costs. The steps the Town may take to recover its costs include, but are not limited to, placing the amount on any property the person owns in Minnesota as a service charge pursuant to Minnesota Statutes, section 366.012, filing a lien upon the subject property or other property of the applicant pursuant to Minnesota Statutes, section 514.67, or taking such other action as may be deemed appropriate to obtain full reimbursement for the Town for all costs it incurs related to the application.
- D. **Fees Established.** The Town Board shall establish the amount of application fees, escrows (if required), and such other fees and charges as provided by this Ordinance in a separate resolution or ordinance that shall be kept on file with the Town Clerk and the Land Use Administrator.

SECTION 5: Land Use Permits.

On or after the effective date of this Ordinance, a land use permit shall be required as provided in this Section. The Town has not adopted the state building code and the land use permits required by this Ordinance are not issued pursuant to the State building code. Nothing herein shall be construed as the Town Board adopting or administering the state building code.

- A. **Land Use Permit Required.** No person shall undertake any of the following without first obtaining a land use permit from the Town:
1. Construct, erect, move, or place any 241 sq. ft. or larger freestanding building or structure with a roof;
 2. Erect, construct, or place a foundation;
 3. Modify or expand an existing residential building in a manner that increases the footprint of the building or that expands the structure vertically; or
 4. Expand a building or structure that prior to expansion contained less than 241 sq. ft., but after expansion will contain 241 sq. ft. or more under a roof.

- B. **Land Use Permit Not Required.** No land use permit shall be required for any of the following:
1. Open air decks;
 2. Replacement of siding, doors, windows, or roof;
 3. Interior remodeling; or
 4. Replacement of any wells or septic systems, but well and septic system replacements permits must be obtained from Hubbard County.
- C. **Issuance.** The Land Use Administrator is authorized to issue land use permits upon the submission of a complete application and payment of the application fee, provided the Land Use Administrator determines the proposed work and resulting building or structure complies with this Ordinance.
- D. **Display Required.** The land use permit must be displayed on the property in a location visible from the outside during the excavation, moving, changing, or altering any part of a structure.
- E. **Penalties.** Any person who commences a land use activity which requires a land use permit without first having obtained such a permit from the Town shall be required to obtain an after-the-fact land use permit and pay a multiple of the permit fee as indicated in the Town's current fee schedule.
- F. **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 and no further work may occur until a new land use permit is applied for and obtained from the Town.

SECTION 6: Conditional Use Permits: As of the effective date of this Ordinance, no use requiring a conditional use permit shall be initiated or expanded except upon issuance of a conditional use permit from the Town Board pursuant to this Section.

- A. **Application:** Application for a conditional use permit shall be made by the property owner, or its authorized agent, on the Town's application form, be accompanied by the required application fee and escrow (if required), and must, at a minimum, contain all of the following information:
1. The name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-quarter mile of the property to which the application relates;
 2. The name of the applicant and of all owners of the property to which the application relates; and
 3. A description of the proposed use including, to the extent applicable, hours of operation, parking, anticipated traffic and routes, lighting plans, identification and explanation of any potential sources of significant noise, dust, vibration, or other

impacts reasonably anticipated to be generated by the proposed use which could affect surrounding properties.

B. Procedure: Requests for a conditional use permit shall comply, and shall be processed in accordance, with the following:

1. **Land Use Administrator:** An application for a conditional use permit must be submitted to the Land Use Administrator. The Land Use Administrator shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required fees. If an application is not complete, the Land Use Administrator shall provide the applicant written notice of what information is needed in order to make the application complete within 15 days of the Town's receipt of the application. The Land Use Administrator shall forward complete applications to the Planning Commission to conduct a hearing.
2. **Notice:** At least ten days before the date of the hearing, notice shall be published in the Town's official newspaper and mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within one-quarter mile of the property to which the application relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.
3. **Site Investigation:** The Town may conduct one or more site investigations of the property as part of processing a permit application. If a quorum or more of the Planning Commission or of the Town Board conducts a site investigation, notice shall be posted at the Town's posting places at least three days before the date of the inspection unless the inspection is being conducted as part of the hearing. The Town may also conduct one or more site investigations after a permit has been issued to review an alleged or potential violation of the conditions of the permit or of this Ordinance. Submission of an application, and acceptance of a permit, constitutes consent on the part of the owners of the property to the conditions imposed on the permit and to allow the Town to conduct inspections of the property at reasonable times to determine eligibility to receive a permit and then related to the administration and enforcement of the permit.
4. **Planning Commission:** The Planning Commission shall conduct a public hearing on the proposed conditional use permit and develop a recommendation to the Town Board regarding the proposed permit. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Planning Commission's questions. In reviewing the request and developing its recommendation, the Planning Commission shall consider the standards and criteria set out in this Section in addition to any other standards or criteria applicable to the specific proposed use that may be set out in this Ordinance. It is the owner's burden to prove that the standards and criteria can be met in a manner that does not adversely affect the health, safety or general welfare of the residents in the Town. If the Planning Commission recommends approval of the permit, its recommendation shall include the conditions it recommends be placed on the permit. The recommended conditions may include any of those

identified in this Section as well as any others the Planning Commission determines are appropriate and reasonable to address anticipated impacts of the proposed use in order to protect the public health, safety, and welfare. The Planning Commission shall forward its recommendation, together with its supporting findings, to the Town Board.

5. **Town Board:** The Town Board shall consider the Planning Commission's recommendation and make a final decision regarding the proposed conditional use permit. The Town Board may impose such conditions on the permits it issues as it determines are reasonable to address anticipated impacts of the proposed use in order to protect the public health, safety, and welfare.

C. **Standards and Criteria:** In addition to any specific criteria or standards this Ordinance may contain with respect to a particular use, the following standards and criteria will be used to evaluate if a conditional use permit should be issued based on whether the proposed use, under the circumstances, would:

1. Be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the Town;
2. Be harmonious with the general and applicable specific objectives of the Town's Comprehensive Plan;
3. 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;
4. Be hazardous or disturbing to existing or future neighboring uses;
5. 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;
6. Involve lighting, including lighted signs, that would impair the enjoyment of property and/or property owners in the vicinity or the safety of the traveling public;
7. Be in conformance with the provisions of this Ordinance, and would not unreasonably interfere with the health, safety, and welfare of the surrounding owners and the public, if conducted in compliance with the conditions imposed on the permit; and
8. Adequately provide for parking, current and anticipated traffic congestion, and traffic safety so the use does not become or create a nuisance.

D. **Conditions:** The Town Board may attach such conditions to a conditional use permit it issues as it deems necessary to achieve the purpose of this Ordinance and to protect the public health, safety, and welfare. These conditions may include, but are not be limited to, the following:

1. Increased setbacks;
 2. Landscaping, berming, fencing, screening or other facilities to protect nearby property;
 3. Periods and/or hours of operation;
 4. Intensity and duration of lighting;
 5. Deed restrictions;
 6. Location of parking and signs;
 7. Toxic material storage and handling;
 8. Fire control and access plan;
 9. Compliance with prior conditional use permits and periodic reviews; and
 10. Any other reasonable requirements necessary to fulfill the purposes and intent of this Ordinance including, but not limited to, the protection of public health, safety, and welfare as determined by the Town Board.
- E. **Recording.** The Town Board will record, at the owners' expense, the conditional use permits it issues.
- F. **Amended Permit:** Any change involving structural alterations, enlargement, intensification of the use or similar change not specifically permitted by a conditional use permit shall require that the conditional use permit be amended. An application to amend an existing conditional use permit shall be administered in the same manner that is required for a new conditional use permit. All application and review procedures shall apply.
- G. **Expiration and Revocation:** A conditional use permit shall expire and become void if the use it allows is not substantially started within 12 months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The Town Board may revoke a conditional use permit if it determines, after notice to the owner and conducting a public hearing, that any of conditions imposed on the permit have been violated.
- SECTION 7: Interim Use Permits:** As of the effective date of this Ordinance, no use requiring an interim use permit shall be initiated or expanded except upon issuance of an interim use permit from the Town Board pursuant to this Section.
- H. **Application:** Application for an interim use permit shall be made by the property owner, or its authorized agent, on the Town's application form, be accompanied by the required application fee and escrow (if required), and must, at a minimum, contain all of the following information:

1. The name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-quarter mile of the property to which the application relates;
 2. The name of the applicant and of all owners of the property to which the application relates; and
 3. A description of the proposed use including, to the extent applicable, hours of operation, parking, anticipated traffic and routes, lighting plans, identification and explanation of any potential sources of significant noise, dust, vibration, or other impacts reasonably anticipated to be generated by the proposed use which could affect surrounding properties.
- I. **Procedure:** Requests for an interim use permit shall comply, and shall be processed in accordance, with the following:
1. **Land Use Administrator:** An application for an interim use permit must be submitted to the Land Use Administrator. The Land Use Administrator shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required fees. If an application is not complete, the Land Use Administrator shall provide the applicant written notice of what information is needed in order to make the application complete within 15 days of the Town's receipt of the application. The Land Use Administrator shall forward complete applications to the Planning Commission to conduct a hearing.
 2. **Notice:** At least ten days before the date of the hearing, notice shall be published in the Town's official newspaper and mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within one-quarter mile of the property to which the application relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.
 3. **Site Investigation:** The Town may conduct one or more site investigations of the property as part of processing a permit application. If a quorum or more of the Planning Commission or of the Town Board conducts a site investigation, notice shall be posted at the Town's posting places at least three days before the date of the inspection unless the inspection is being conducted as part of the hearing. The Town may also conduct one or more site investigations after a permit has been issued to review an alleged or potential violation of the conditions of the permit or of this Ordinance. Submission of an application, and acceptance of a permit, constitutes consent on the part of the owners of the property to the conditions imposed on the permit and to allow the Town to conduct inspections of the property at reasonable times to determine eligibility to receive a permit and then related to the administration and enforcement of the permit.
 4. **Planning Commission:** The Planning Commission shall conduct a public hearing on the proposed interim use permit and develop a recommendation to

the Town Board regarding the proposed permit. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Planning Commission's questions. In reviewing the request and developing its recommendation, the Planning Commission shall consider the criteria set out in this Section and such other factors as it determines are appropriate to evaluate the proposed use. It is the owner's burden to demonstrate it is eligible to receive the requested permit. If the Planning Commission recommends approval of the permit, its recommendation shall include the conditions it recommends be placed on the permit. The recommendation shall include any conditions the Planning Commission determines are appropriate and reasonable to address anticipated impacts of the proposed use in order to protect the public health, safety, and welfare. The recommended conditions may include any of the conditions that may be made applicable to a conditional use permit and shall, at a minimum, include the date and/or event on which the permit will expire. The Planning Commission shall forward its recommendation, together with its supporting findings, to the Town Board.

5. **Town Board:** The Town Board shall consider the Planning Commission's recommendation and make a final decision regarding the proposed interim use permit. The Town Board shall consider the criteria set out in this Section and such other factors as it determines are appropriate to evaluate the proposed use including, but not limited to, the criteria evaluated by the Planning Commission in making its recommendation. The Town may impose such reasonable conditions as it determines are necessary on interim use permits it issues, including a requirement to provide and maintain with the Town a performance bond or other financial security. An interim use permit must indicate, in the conditions placed on the permit, the date and/or event on which it terminates.
- J. **Criteria:** An "interim use" is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it. In granting an interim use permit, the Town Board shall consider the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding lands and water bodies. Among other things, the Town Board shall make the following findings where applicable:
1. The proposed use meets the applicable standards set forth for conditional use permits;
 2. The proposed use will terminate upon a date or event that can be identified with certainty; and
 3. The proposed use will not impose additional costs on the public if it is necessary for the public to take the property in the future.
- K. **Amended Permit:** Any change involving structural alterations, enlargement, intensification of the use or similar change not specifically permitted by an interim use permit shall require that the interim use permit be amended. An application to amend an existing interim use permit shall be administered in the same manner that is required for a new interim use permit. All application and review procedures shall apply.

- L. **Expiration and Revocation:** An interim use permit shall expire and become void if the use it allows is not substantially started within 12 months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. An interim use permit shall expire as of the date or event identified in the permit, but the owner may apply for a new interim use permit. The Town Board may revoke an interim use permit if it determines, after notice to the owner and conducting a public hearing, that any of conditions imposed on the permit have been violated.

SECTION 8: Variances: No variances shall be granted by the Town except in conformance with this Section.

- A. **Authority:** The Board of Appeals and Adjustments may grant a variance from the provisions of this Ordinance in order to promote the effective and reasonable application and enforcement of this Ordinance. A variance is a modification or variation of the provisions of this Ordinance as applied to a specific property. The Board of Appeals and Adjustments may not grant a variance for any use that is not allowed by this Ordinance for property in the zoning district in which the property is located. The Board of Appeals and Adjustments may grant a variance for the temporary use of a one family dwelling as a two family dwelling and may grant a variance for an earth sheltered construction as defined in Minnesota Statutes, section 216C.06, subdivision 14 when such construction would be in harmony with this Ordinance.
- B. **Application:** Application for a variance shall be made by the property owner, or its authorized agent, on the Town's application form, be accompanied by the required application fee and escrow (if required), and must, at a minimum, contain all of the following information:
1. The name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-quarter mile of the property to which the application relates;
 2. The name of the applicant and of all owners of the property to which the application relates;
 3. A description of the proposed use or structure to which the variance relates; and
 4. An explanation of the specific conditions and circumstances that give rise to the practical difficulties in strictly complying with the provisions of this Ordinance and the specific provisions of this Ordinance from which a variance is being sought.
- C. **Procedure:** Requests for a variance shall comply, and shall be processed in accordance, with the following:
1. **Land Use Administrator:** An application for a variance must be submitted to the Land Use Administrator. The Land Use Administrator shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required fees. If an application is not complete, the Land Use Administrator shall provide the applicant written notice of

what information is needed in order to make the application complete within 15 days of the Town's receipt of the application. The Land Use Administrator shall forward complete applications to the Planning Commission to conduct a hearing.

2. **Notice:** At least ten days before the date of the hearing, notice shall be published in the Town's official newspaper and mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within one-quarter mile of the property to which the application relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.
3. **Site Investigation:** The Town may conduct one or more site investigations of the property as part of processing a variance application. If a quorum or more of the Planning Commission or the Board of Appeals and Adjustments conducts a site investigation, notice shall be posted at the Town's posting places at least three days before the date of the inspection unless the inspection is being conducted as part of the hearing. The Town may also conduct one or more site investigations after a variance has been issued to review an alleged or potential violation of the conditions of the variance or of this Ordinance. Submission of an application, and acceptance of a variance, constitutes consent on the part of the owners of the property to the conditions imposed on the variance and to allow the Town to conduct inspections of the property at reasonable times to determine eligibility to receive a variance and then related to the administration and enforcement of the variance.
4. **Planning Commission:** The Planning Commission shall conduct a public hearing on the proposed variance and develop a recommendation to the Board of Appeals and Adjustments regarding the proposed variance. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Planning Commission's questions. In reviewing the request and developing its recommendation, the Planning Commission shall consider the criteria set out in this Section and such other factors as it determines are appropriate to evaluate the proposed use. It is the owner's burden to demonstrate it is eligible to receive the requested variance. If the Planning Commission recommends approval of the variance, its recommendation shall include the conditions it recommends be placed on the variance. The recommendation shall include any conditions the Planning Commission determines are appropriate and reasonable to address anticipated impacts of the proposed use in order to protect the public health, safety, and welfare. The Planning Commission shall forward its recommendation, together with its supporting findings, to the Board of Appeals and Adjustments.
5. **Board of Appeals and Adjustments:** The Board of Appeals and Adjustments shall make the final decision regarding the requested variance after conducting a public hearing. The Board of Appeals and Adjustments shall not issue a variance unless it determines that the particular request satisfies the criteria set out in this Section. The Board of Appeals and Adjustments may impose such conditions on the variances it issues as it determines are reasonable. All such conditions must be directly related to and bear at least a rough proportionality to the impact the Board of Appeals and Adjustments determines will be created by the variance.

- D. **Criteria:** The owner has the burden of demonstrating that sufficient practical difficulties exist, based on the following criteria, with respect to its property to justify the issuance of a variance. The Board of Appeals and Adjustments shall consider the following criteria in determining whether to issue a variance:
1. The variance is in harmony with the general purposes and intent of this Ordinance;
 2. The variance is consistent with the comprehensive plan;
 3. The owner proposes to use the property in a reasonable manner not permitted by this Ordinance;
 4. The plight of the owner is due to circumstances unique to the property that were not created by the owner;
 5. If granted, the variance will not alter the essential character of the locality; and
 6. Economic considerations are not the sole basis for the requested variance.
- F. **Recording.** The Town Board will record, at the owners' expense, the variances it issues.
- G. **Expiration and Revocation:** A variance shall expire and become void if the use or structure to which it relates is not substantially started within 12 months from its date of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The Board of Appeals and Adjustments may revoke a variance if it determines, after notice to the owner and conducting a public hearing, that any of conditions imposed on the variance have been violated.

SECTION 9: Appeals: As of the effective date of this Ordinance, no appeal shall be heard except in accordance with the following.

- A. **Appealable Decisions:** Only alleged errors in an order, requirement, decision, or determination made by the Land Use Administrator in the enforcement of this Ordinance are appealable to the Board of Appeals and Adjustments. The decisions of the Town Board and the Board of Appeals and Adjustments are final and are not appealable to the Board of Appeals and Adjustments. Recommendations of the Planning Commission are not final decisions and are not appealable to the Board of Appeals and Adjustments.
- B. **Notice of Appeal:** In order to bring an appeal, a person shall file a written notice of appeal with the Town Clerk within 15 days of the date of the order or decision being appealed together with the required fee. The notice of appeal must, at a minimum, contain all of the following information:
1. The name, mailing address, and phone number of the person making the

appeal;

2. The name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-quarter mile of the property to which the appeal relates;
3. Describe the specific order or decision being appealed, the date of the order or decision, and identify the person who issued the order or made the decision;
4. A detailed explanation of the grounds for the appeal; and
5. Identify the specific relief being sought by the appeal.

C. **Procedure:** Notices of appeals shall comply, and shall be processed in accordance, with the following:

1. **Town Clerk:** The Town Clerk shall review the notice of appeal to determine if it contains all the required information and is otherwise complete. If a notice of appeal is not complete, the order or decision to which it relates is not appealable, or if it was not filed in a timely manner, the Town Clerk shall reject the notice of appeal. The Town Clerk shall provide a written notice of the rejection to the person that filed the appeal. The Town Clerk may consult the Board of Appeals and Adjustments and the Town Attorney as needed to make a determination as to whether a notice of appeal is complete, proper, and filed in a timely manner. The Town Clerk shall forward complete, proper, and timely notices of appeals to the Board of Appeals and Adjustments to conduct a hearing. The Town Clerk shall also provide a copy of the notice of appeal to the Planning Commission.
2. **Notice:** At least ten days before the date of the hearing, notice shall be published in the Town's official newspaper and mailed by first-class mail to the person bringing the appeal and to all property owners of record, according to the county auditor's property tax records, within one-quarter mile of the property to which the appeal relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results. In scheduling the hearing, the Board of Appeals and Adjustments shall allow a reasonable time, not to exceed 60 days, for the Planning Commission to review and report on the notice of appeal.
3. **Planning Commission:** The Planning Commission may review and provide a report to the Board of Appeals and Adjustments on a notice of appeal. The Planning Commission is not authorized to conduct a hearing on the notice of appeal. If the Planning Commission develops a report it shall provide it to the Board of Appeals and Adjustments prior to the scheduled hearing.
4. **Board of Appeals and Adjustments:** The Board of Appeals and Adjustments shall conduct a public hearing on the notice of appeal. The appellant, or its authorized agent, is expected to attend the hearing to explain the appeal and to answer the Board of Appeals and Adjustments' questions. The Board of Appeals and Adjustments shall make the final decision regarding the matter

being appealed. The Board of Appeals and Adjustments may reverse or affirm, wholly or partly, or modify the order or decision being appealed, and issue such orders, requirements, decisions, permits, or determinations, or provide such other relief as it deems appropriate. The Board of Appeals and Adjustments shall issue its decision in a written order which contains its findings. It shall provide a copy of its order to the appellant within 10 days of its issuance.

5. **Judicial Review.** Appeals from the final decisions of the Town Board or of the Board of Appeals and Adjustments may be brought as provided in Minnesota Statutes, section 462.361.

SECTION 10: Amendments: An amendment to the text of this Ordinance or of the land use map, including requests to rezone property, may only occur as provided in this Section.

A. **Who May Initiate:** An amendment to this Ordinance or the land use map may be initiated by the Town Board, the Planning Commission, or by application of an affected property owner. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the Town Board until it has received the Planning Commission's recommendations, or until at least 60 days after the proposed amendment was submitted to the Planning Commission.

B. **Application:** An owner seeking an amendment, including a request to rezone property, shall complete the Town's application form, together with the required application fee and escrow (if required), and the application must, at a minimum, contain all of the following information:

1. If the application involves a request to change district boundaries affecting an area of five acres or less, the name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-quarter mile of the property to which the application relates;
2. The name of the applicant and of all owners of the property to which the application relates; and
3. A description of the specific provisions of the Ordinance, or the proposed change in zoning, and proposed change.

C. **Procedure:** Applications for an amendment, including rezoning, shall comply, and shall be processed in accordance, with the following:

1. **Land Use Administrator:** An application for an amendment must be submitted to the Land Use Administrator. The Land Use Administrator shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required fee. If an application is not complete, the Land Use Administrator shall provide the applicant written notice of what information is needed in order to make the application complete within 15 days of the Town's receipt of the application. The Land Use Administrator shall forward complete applications to the Planning Commission to conduct a hearing.
2. **Town Initiated Amendments.** An amendment proposed by the Planning Commission shall be forwarded in writing to the Town Board for review. If the

Town Board authorizes the Planning Commission to proceed with the amendment, the Planning Commission shall hold a hearing on the proposed amendment in accordance with the Town Board's authorization and this Section. If the Town Board initiated the amendment, the Planning Commission shall hold a hearing on the proposed amendment in accordance with this Section.

3. **Notice:** At least ten days before the date of the hearing, notice shall be published in the Town's official newspaper. If the application involves a request to change district boundaries affecting an area of five acres or less, the notice shall also be mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within one-quarter mile of the property to which the application relates at least ten days before the hearing. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.
 4. **Planning Commission:** The Planning Commission shall conduct a public hearing on the proposed amendment and develop a recommendation to the Town Board regarding the proposed amendment. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Planning Commission's questions. The Planning Commission shall forward its recommendations regarding a proposed amendment to the Town Board for final action.
 5. **Town Board:** The Town Board shall take action on the proposed amendment at a Town Board meeting. If the amendment was initiated by application of an owner, the Town shall inform the property owner of the Town Board's decision.
- D. **Limit on Similar Applications:** No application of an owner for an amendment to the text of the Ordinance or the Zoning Map shall be considered by the Town within a one-year period following a denial of such request, except that a new application may be allowed if, in the opinion of the Land Use Administrator, there is new evidence or a sufficient change of circumstances to warrant additional consideration of the proposal by the Town.

ARTICLE XI **ENFORCEMENT**

- A. **General Offense:** Any person, firm or corporation who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a maximum fine or maximum period of imprisonment, or both, as specified by Minnesota Statutes, section 609.03. A violation of this Ordinance shall include, but is not limited to, any of the following: failing, neglecting, or refusing to comply with the provisions of this Ordinance; violating any condition placed on a permit or variance issued by the Town; or knowingly making any false statements in any document required to be submitted under the provisions of this Ordinance. Each day that a violation continues shall constitute a separate offense. In the event of a violation or a threatened violation of this Ordinance, the Town Board, in addition to other remedies, may institute appropriate criminal and/or civil actions or proceedings to prevent, prosecute, restore, restrain, correct or abate such violations or threatened violations.

- B. **Enforcement:** The Town Board, Land Use Administrator, and Town Board's appointed representatives have the authority to enforce this Ordinance by issuing notices of violation, cease and desist orders, citations, and taking or instituting such other lawful actions as may be needed to enforce this Ordinance and to bring a property into compliance. A violation of this Ordinance can occur regardless of whether a permit is required for a regulated activity. If a cease and desist order is issued to stop an activity, the activity may not be resumed until the reason for the work stoppage has been completely satisfied and the cease and desist order lifted.
- C. **Prosecution:** The 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. The Town may seek injunctive relief for on any violation, including to require the restoration of a premises to its condition existing prior to the violation or to a condition that complies with this Ordinance.
- D. **Costs of Enforcement.** The cost of prosecution may be added to any fines or other penalties imposed as provided in Minnesota Statutes, section 366.01, subdivision 10. The Town may also collect such other reasonable costs it incurs to enforce this Ordinance by certifying the amount to the County Auditor as a service charge pursuant to Minnesota Statutes, section 366.012 for collection together with the property taxes levied against any real property the person or entity subject to the enforcement action owns in the Town. The Town will provide the property owner written notice of its intent to certify the amount on or before September 15. The amounts so certified to the County shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes.
- E. **After the Fact Applications:** Any application for a permit or variance required under this Ordinance that is submitted to the Town after the use was initiated or the work has commenced shall be required to pay an after-the-fact application fee, which is a multiple of the permit or variance fee as indicated in the Town's current fee schedule.

This Ordinance shall become effective upon its adoption and the first day of publication.

Adopted on the _____ day of _____ 2011.

BY THE TOWN BOARD

Town Chairperson

ATTEST:

Town Clerk