

MANTRAP TOWNSHIP LAND USE ORDINANCE

HUBBARD COUNTY, MINNESOTA

ORDINANCE NUMBER 1

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MANTRAP TOWNSHIP LAND USE ORDINANCE

The Board of Supervisors of the Town of Mantrap ordains:

ARTICLE I - GENERAL PROVISIONS

SECTION 100 GENERAL

SECTION 100-010. INTENT AND PURPOSE.

This land use ordinance, which shall be known as the "Mantrap Township Land Use Ordinance" and referred to herein as this "Ordinance," regulates the use of land within Mantrap Township by the use of districts, identifying the uses allowed in each district, imposing regulations, performance standards, and enforcement provisions, including regulations concerning the location, size, and use of buildings, and the placement and density of buildings on property. The Town Board of Mantrap Township ("Town") hereby adopts this Ordinance pursuant to its authority under Minnesota Statutes, sections 462.351 to 462.364 and such other law as may apply. The Town has not adopted and does not administer or enforce the state building code.

This Ordinance is intended to serve the following purposes:

1. To protect and promote the public health, safety, and general welfare of the Town;
2. To promote a balanced growth between conservation and development by minimizing the conflicts among the uses of land and buildings;
3. To assist the future growth and development of the Town in accordance with the Land Use Plan adopted by the Town Board;
4. To provide for adequate air and light, privacy, and safety from fire and other dangers associated with overcrowding and undue congestion; and
5. To protect and preserve the value of land and buildings throughout the Town, while preserving the environmental quality and natural beauty of the lakes and woods.

SECTION 100-020. JURISDICTION.

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

SECTION 100-030. MINIMUM REQUIREMENTS.

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 and 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 liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other powers granted the Town by law.

SECTION 100-040. RULES.

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

1. The singular number 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" and "must" are 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 most applicable Hubbard County ordinance to the extent the term is given a specific definition therein. If not defined therein, it shall have the meaning given it in the most applicable Minnesota Statutes and, if not defined therein, the most applicable Minnesota Rules. 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. The masculine gender includes the feminine and neuter genders;
6. All measured distances expressed in feet shall be to the nearest tenth of a foot;
7. This Ordinance shall be interpreted in a manner to remain consistent with applicable laws and to carry out its intent and purpose;
8. The references made herein to statutes, rules, regulations, or ordinances of the state or county shall automatically include any amendments made thereto and any successor provisions 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 Town responsible for the administration or enforcement of the referenced statutes, rules, regulations, or ordinances;
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; and
10. In the event of conflicting provisions, the more restrictive provisions shall apply.

SECTION 100-050. RELATION TO LAND USE PLAN.

It is the policy of the Town that the enforcement, amendment, and administration of this Ordinance be accomplished with due consideration of the recommendations contained in the Land Use Plan as developed and amended from time to time by the Planning Commission and Town Board. The Town Board recognizes the Land Use Plan as the policy for regulating land use and development in accordance with the policies and purposes herein set forth.

SECTION 100-060. COMPLIANCE.

No structure or building in the Town shall be erected, placed, moved, constructed, reconstructed, converted, enlarged, moved, or altered unless in conformity with the regulations contained in this Ordinance. No land, structure, or building shall be used or occupied in the Town for any purpose or in any manner that is not in conformity with the regulations contained in this Ordinance and without first obtaining any required permits. Construction of all structures and buildings, or the undertaking of any uses, must be in accordance with the submitted application and plans, and must conform with the terms and conditions of any permits or variances issued by the Town. Permits issued by the Town 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. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

SECTION 100-070. COUNTY REGULATIONS. Hubbard County has adopted shoreland regulations, subsurface sewage treatment system regulations, and various other regulations that apply to and regulate the development and use of land within the Town. The County is responsible for administering and enforcing the provisions of its ordinances, including the processing and issuance of any permits or licenses required thereunder. This Ordinance does not adopt, nor shall it be construed as adopting, any portion of the County's regulations and the Town is not assuming any responsibility for the administration or enforcement of those regulations.

SECTION 100-080. APPLICATIONS AND FEES.

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 as part of its schedule of fees and are intended to defray the administrative costs of processing requests.

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 deposit with the Town an escrow in the amount set out in the fee schedule, or as determined by the Zoning 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 Zoning 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 costs shall be a sufficient basis on which to deny a request.

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 or escrow amount set out in the fee schedule. If an additional escrow is required that is not provided for in the fee schedule, the application shall submit the required amount for escrow with the Town with 10 days of the submission of the application or the application shall be deemed incomplete and will not be processed.

Application fees are not refundable. The Town shall reimburse itself from the escrow for all consulting costs it incurs related to processing and acting on the application. Any escrow amount deposit in excess of the Town's consulting costs shall be refunded to the applicant without interest. No permits shall be issued, no construction or development shall commence, and no use of the property shall be made until all fees and consulting 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 the person's property 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.

Any person making an application for a permit after the commencement of the work requiring a permit shall be charged a double permit fee. The Zoning Administrator may require corrective action to restore the property to its original state in the event that the permit is denied, or the action permitted does not include all the work that has been done prior to approval of the said permit.

SECTION 100-090. 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 other charges imposed by the Town 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, consulting costs, and other 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. The Town may also use any other method available to it under law to collect any unpaid amounts owed to it.

SECTION 100-100. PRIOR 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, building, structure, or lot that was not in conformance with the earlier ordinances.

SECTION 100-110. SEPARABILITY.

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 lot, building, or structure, such judgment shall not affect the application of said provisions to any other lot, building, or structure not specifically included in said judgment.

SECTION 200 DEFINITIONS

The following words and terms, whenever they occur in this Ordinance, shall have the meaning given them in this section.

Accessory Structure or Use: A building, structure, or use which is clearly incidental or subordinate to, and customary in connection with, the principal building, structure, or use, that is located on the same lot as the principal building. Any accessory building or structure attached to a principal building or structure is deemed to be part of such principal building or structure. Examples of such buildings, structures, and uses include, but are not limited to: off-street parking, loading-unloading areas, swimming pools, tennis courts, solar collectors, satellite dishes, transmitters and receivers, detached garages and storage buildings.

Antenna: Any structure or device used for the purpose of collecting or radiating electromagnetic waves including, but not limited to, directional antennas such as panels, microwave dishes, satellite dishes and omnidirectional antennas such as whip antennas.

Agricultural Use: The use of land for the growing and /or production of field crops, tree farms, or animals.

Apartment: A room or suite of rooms which is designed for a residence by a single family, or a group of individuals living together as a single family unit, or an individual, and is equipped with cooking facilities. Includes dwelling unit and efficiency unit. This includes any unit in buildings with more than two (2) dwelling units.

Average Grade: The average of finished ground level adjoining the building at exterior walls.

Basement: Any area of a structure, including crawl spaces, having its floor or base below ground level on all four sides, regardless of the depth of excavation below ground level.

Bed and Breakfast: A single-family dwelling in which six or fewer transient guest rooms are rented on a nightly basis for a period of less than a week and where at least one meal is offered in connection with the provision of sleeping accommodations only.

Board of Appeals and Adjustments: The Mantrap Township Board of Appeals and Adjustments. The Town Board performs the duties of the Board of Appeals and Adjustments.

Boarding House: A building other than a hotel or motel where, for compensation and by prearrangement for definite periods, meals, or lodging and meals, are provided to three (3) or more persons, but not more than 10 persons at any time.

Building: Any structure having a roof or other covering, built for the support, shelter or enclosure of persons, animals, chattel, or movable property of any kind.

Building Coverage: The percentage of total lot area covered by primary and accessory buildings as measured by the total horizontal area of the building(s) calculated by the total square footage covered divided by the total lot area.

Building Height: The vertical distance measured from the average grade of the land to the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest gable on pitched or hip roof.

Building Line: A line parallel to a lot line at the required setback, at any story level of a building and representing the minimum distance beyond which all or any part of the building may not extend.

Campground: An area or parcel of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, and which is primarily used for recreational purposes and retains an open air or natural character.

Church: A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which are maintained and controlled by a religious body organized to sustain public worship.

Clinic: A place where medical, dental, optometric, chiropractic, psychiatric, or nursing care is furnished to persons on an out-patient basis by one or more licensed professionals.

Commercial Energy Production: The energy sources that are used to generate electricity,(example: renewable, fossil, nuclear).

Commercial Wireless Telecommunication Services: all commercial wireless telecommunications services including cellular, personal communications services, specialized mobilized radio, enhanced specialized mobilized radio, paging and similar services that are marketed to the general public.

Conditional Use: A land use or development allowed by this Ordinance and classified as being a conditional use. A conditional use is only allowed upon the issuance by the Town of a conditional use permit. A conditional use permit may be granted after an in-depth review procedure, a public hearing, finding that the standards and criteria stated in this Ordinance will be satisfied, and subject to compliance with such conditions as the Town Board may impose on the permit. A conditional use must conform to the comprehensive land use plan, if one exists, and be compatible with the existing neighborhood.

Condominium: A multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the provisions of the Minnesota Uniform Condominium Act (Minnesota Statutes, chapter 515A).

Conservation District: Consists of all areas of publicly-owned land located within the Town that is in fact administered by either the State of Minnesota through the Department of Natural Resources (DNR) or County Administered Lands (CAL) through Hubbard County, and generally held in perpetuity.

Conservation Transition District: Consists of all privately-owned land located within the Conservation District.

Deck: A horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principal use, structure or site, and at any point extending more than three feet above ground. A deck is considered a structure.

Duplex, Triplex and Quad: Dwelling structures on a single lot having two, three and four units respectively, attached by common walls and each unit having separate sleeping, cooking, eating, living and sanitation facilities.

Dwelling: Any structure, or portion of a structure, used exclusively for residential purposes, including one-family, two-family and multiple family dwellings, but not including rental or timeshare accommodations such as motel, hotel and resort rooms, and resort cabins.

Dwelling Unit: A room or group of rooms located within a dwelling to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping.

Easement: A grant by a property owner for a specified use of land by a corporation, the public or specified persons.

Environmental Assessment Worksheet (EAW): A brief document, in worksheet format, that helps local governments determine if a proposed action is a major action with a potential for significant environmental effects, but also to consider alternatives and to institute methods for reducing environmental effects.

Extractive Use: The use of land for surface or subsurface removal of 400 cubic yards or more in a year of sand, topsoil, gravel, rock, industrial materials, peat and non-metallic minerals not regulated under Minnesota Statutes, sections 93.44 through 93.51. An extractive use shall include borrow pits, the pit area, stockpiles, haul roads, entrance roads, scales, crusher, and all related facilities. An extractive use shall not include an excavation for a structure for which a building permit has been obtained, excavations in the right-of-way by a state, county, city or Town authority in connection with construction or maintenance of public improvements, excavations for agricultural purposes and excavations for public utility purposes.

Family: An individual or two or more persons related by blood, marriage, or adoption living together as a single housekeeping unit in a dwelling unit; or a group of not more than four (4) persons who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit.

Fence: Any partition, structure, wall, or gate erected as a dividing marker, barrier or enclosure and located along the boundary, or within the property boundaries.

Floor Area: Total gross area of all floors as measured to the outside surfaces of exterior walls, excluding crawl spaces, garages, carports, breezeways, attics without floors, and open porches, balconies, decks and terraces.

Floor Area Percentage: The total floor area divided by the total lot area.

Footprint: The leading edge of the structure projected vertically onto the ground.

Garage: A fully enclosed building designed or used for the storage of motor vehicles not including buildings in which fuel is sold or in which repair or other services are performed.

Guest Cottage: A structure occasionally or temporarily used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

Home Occupation: The following types of uses which are clearly secondary and incidental to residential occupancy, and which do not change the character thereof:

1. Type I. An occupation conducted on any property in which no evidence of nonresidential activity is evident off of the premises, no increase in traffic results from the business activity, and no employees other than household members work on the premises. Type I home occupations are allowed in all district areas and do not require a permit, and specifically include the following types of occupations: artists, illustrators, writers, photographers, editors, drafters, publishers, consultants, private investigators, music and educational instructors that instruct one student at a time and other similar activities where work of the business consists of activities such as research, word processing, and record-keeping. All such uses shall be subject to all other provisions of this Ordinance.
2. Type II. An occupation conducted in any district area that does not meet the requirements of a Type I home occupation for one or more reasons, but is not identified as a Type III home occupation. Specifically excluded are any activities that result in the alteration of a building, window display, construction features, equipment, machinery or outdoor storage, any of which is visible from outside of the lot on which such use is located. Type II home occupations are permitted uses in all district areas with the issuance of a conditional use permit, and specifically include the following types of occupations: licensed daycares serving 12 or fewer persons, state licensed residential facility registered under Chapter 144D serving 6 or fewer persons, group family daycare facilities licensed under Minnesota Rules, parts 9502.0314 to 9502.0445 to serve 14 or fewer children, commercial contractor storage, or similar uses which may result in the need for multiple trips or visits to the home business. All such uses shall be subject to all other provisions of this Ordinance.
3. Type III. Home occupations conducted in any district areas that have the potential to adversely affect the functioning of individual sewage treatment systems or those uses that have an increased potential to create a nuisance, environmental contamination, inappropriate off-street parking, or any other inappropriate residential activities which may significantly disrupt the reasonable right to use and occupancy of surrounding residential uses in the immediate neighborhood. Type III home occupations may include uses such as: licensed daycare serving 13-16 persons, state licensed residential facility registered under Chapter 144D serving 7-16 persons, greenhouses, automobile sales and repair operations, lumber mills, welding shops, appliance repair, small engine repair, and all other similar uses as determined by the Planning Commission. Type III home occupations are interim uses in all districts.

Hotel/Motel: Any building or portion thereof where lodging is offered to transient guests for compensation and in which there are more than three (3) sleeping rooms, with no cooking facilities in an individual room or apartment. Hotels and motels within the shoreland overlay district are commercial planned unit developments.

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 an increased rate of flow than

prior to development. Examples include, but are not limited to, the following: rooftops, sidewalks, decks, patios, storage areas, paver rock/stones, and concrete, asphalt, or packed gravel surfaces.

Individual Subsurface Sewage Treatment System: A sewage treatment system (ISTS), other than a public or community system, which receives sewage from an individual establishment. Unless otherwise indicated, the word "system", as it appears in this Ordinance, means an individual sewage treatment system, as further defined in Minnesota Rules, chapter 7080.

Interim Use: A temporary use of land allowed by this Ordinance and classified herein as being an interim use. An interim use is only allowed upon a public hearing, approval by the Town of an interim use permit, compliance with the conditions placed on the permit, and the use may only continue until a particular date or until a particular event as indicated in the permit, or until zoning regulations no longer permits it. Interim use permits are not recorded, and all interim uses shall, at a minimum, conform to the performance standards established herein.

Kennel: Any lot or premises on which five or more dogs aged six months or older are kept, either owned or boarded, either permanently or temporarily.

Lot: A parcel of land designated by plat, metes and bounds, registered land survey, county auditor's plat, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease or separation.

Lot Area: The area of land within the boundaries of a lot, excluding that portion of a lot that is below the ordinary high water level.

Lot Line: A line marking a boundary of a lot except that where any portion of a lot extends into the public right-of-way, the lot line shall be deemed to be the boundary of said public right-of-way.

Lot Line - Front: For a riparian lot, the front lot line is that line indicating the ordinary high water level abutting the waterbody. For a non-riparian lot, a front lot line is a line dividing a lot from any public roadway or private road right-of-way or easement, except a limited or controlled access highway to which the lot has no access.

Lot Line - Rear: The lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line. For any lot that abuts on an alley, the rear setback may be measured from the centerline of such alley right-of-way.

Lot Line - Side: Any lot line which meets the end of a front lot line and any other lot line within thirty degrees of being parallel to such a line, except a front lot line.

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 County Recorder prior to the effective date of this Ordinance.

Lot Width: The shortest distance between side lot lines measured at the midpoint of the building line.

Multi-family dwelling: A building or portion thereof used for occupancy by three or more families living independently of each other and containing three or more dwelling units, including what is commonly known as an apartment building.

Nonconformity: Any legal use, structure, or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded, or authorized.

Ordinary High-Water Level: The boundary of public waters and wetlands indicated by an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel.

Parking Lot: A designated area for parking vehicles for a fee or for parking associated with a principal use where the lot is not located on the same property as the use. The term does not apply to parking located on the same property as the associated principal use.

Permanent Foundation: A structural system constructed of durable material such as concrete or masonry consisting of approved footings, crawl space, or a basement that has an exterior trim, suitable to the exterior of the structure, that extends to the ground level/grade level.

Planning Commission: The Mantrap Township Planning Commission. The Planning Commission performs the duties set out in law and this Ordinance and serves in an advisory capacity to the Town Board.

Planned Unit Development: A type of development characterized by a united site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperative housing, full fee ownership, commercial enterprises, or any combination of these, or as cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, mobile home parks, resorts, hotels, motels, and conversions of existing structures and land uses to these uses. Planned unit developments are conditional uses requiring a conditional use permit.

Planned Unit Development - Commercial: Uses that provide transient, short-term lodging spaces, rooms or parcels with primarily service-oriented operations. Hotel/motel accommodations, bed and breakfast accommodations, resorts, recreational vehicle and camping parks, and other primarily service oriented activities are examples of commercial planned unit developments.

Planned Unit Development - Residential: A use where the nature of residency is non-transient and the major or primary focus of the development is not service-oriented. For example: single family residences; duplexes; triplexes; residential apartments; mobile home parks; condominiums; timeshare condominiums; townhouses; cooperatives; and conversions of structures and land uses to these uses. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

Plat: A map or drawing that graphically delineates the boundary of land parcels for the purpose of identification and record of title. The plat is a recorded legal document and must conform to the law.

Platform: A horizontal unenclosed platform without railings, seats, trellises, or other features attached or functionally related to a principal use or site at ground level or at any point extending above ground level but less than three (3) feet above the ground. Platforms with railings, seats, trellises or other features shall be regulated as decks regardless of height above ground level.

Principal Structure: A structure in which a principal use of the lot on which the structure is located and conducted.

Principal Use: The main use of land or structures as distinguished from an accessory use.

Private Road: A road providing access to one or more lots which is not dedicated to or maintained by the public road authority as part of its system of publicly maintained roads, streets, or highways.

Public Road: Any public roadway, highway, street, road, or cartway in which the federal, state, county, or town government has an interest.

Public utility: persons, corporations or governments supplying gas, electric, transportation, water, sewer or landline telephone services to the general public. For the purpose of the Ordinance, commercial wireless telecommunications services shall not be considered a public utility use and are defined separately.

Public Waters: Has the same meaning given the term in Minnesota Statutes, section 103G.005, subdivisions 15.

Recreational Vehicle: Any vehicle or vehicular portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreation or other vacation use.

Recreational Vehicle Campground: Any area, whether privately or publicly owned, used on a daily, nightly, weekly or longer basis for the accommodation of five or more tents or recreational vehicles, either free of charge or for compensation. Recreational Vehicle Campgrounds shall be considered commercial planned unit developments.

Resort: A private commercial recreational development that includes multiple units intended for habitation on a temporary basis for relaxation or recreational purposes. Resorts shall be considered commercial planned unit developments.

Riparian Lot: Any lot that is bounded on one or more sides by public waters frontage.

Search Ring: The area for coverage requested by a wireless service provider.

Semi-public Uses: Uses owned by private or private non-profit organizations which are open to some, but not all, of the public such as denominational cemeteries, private schools, clubs, lodges, recreation facilities, churches, etc.

Septic Tank: Any water tight, covered receptacle designed and constructed to receive the discharge of sewage from a building's sewer, to separate solids from liquids, digest organic matters, and store liquids for a period of detention, and allow the liquids to discharge to a soil treatment system.

Setback: The minimum horizontal distance between a structure, sewage treatment system, or other facilities and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

Shoreland: Has the meaning given that term in the Hubbard County Shoreland Management Ordinance. The shoreland areas within the Town that are part of the Shoreland Overlay District are identified by Hubbard County as part of its shoreland regulations.

Subsurface Sewage Treatment System: A system which uses subsurface soil treatment and disposal whereby septic tank effluent is treated and disposed of below the ground surface by filtration and percolation through the soil and includes those systems commonly known as: seepage beds; disposal field; and mounds. All private sewage treatment systems must meet or exceed the Hubbard County Environmental Services Department provisions in the Standard Ordinance and Minnesota Rules, chapter 7080. Minnesota Rules, chapter 7080 defines an SSTs as either an individual subsurface sewage treatment system or a midsize subsurface sewage treatment system.

Single-family dwelling: A structure designated or used for residential occupancy by one family.

Structure: That which is built or constructed, an edifice or building or appurtenance thereto, or any piece of work artificially built up, or composed of parts joined together in some definable manner, except aerial or underground utility lines such as: sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting appurtenances.

Subdivision: The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building or development or, if a new street is involved, any division of a parcel of land; the term includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land subdivided.

Town Board: The Board of Supervisors of Mantrap Township, Hubbard County, Minnesota.

Tower: A structure situated on a site that is intended for transmitting or receiving television, radio, telephone, cellular or wireless communications.

1. Communication tower, freestanding, self-supporting—a ground mounted tower consisting of a pole, spire, structure or combination thereof constructed without guy wires and anchors.
2. Communication tower, guyed—a tower that is supported in whole or part by guy wires and ground anchors.
3. Communication tower, monopole—a ground mounted tower consisting of a single pole constructed without guy wires and anchors.
4. Tower height—determined by measuring the vertical distance from the point of contact with the ground to the highest point of the tower including all antenna or other attachments.

Two-family dwelling: A structure designated or used for residential occupancy by two families in separate dwelling units within the structure.

Variance: A modification or variation from official controls where it is determined that strict enforcement of the official controls would cause practical difficulties for the property owner in using the property in a reasonable manner because of circumstances unique to the property such as lot size, shape, topography or other characteristic of the property, and when the variance from this Ordinance, together with any conditions imposed thereon, will remain in harmony with the general purpose and intent of the Ordinance and is consistent with the comprehensive plan. A variance cannot allow a use of land that is not permitted in the zoning district in which it is located.

Wetland: A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 Edition).

Zoning Administrator: The person designated by the Town Board to serve as the administrator of this Ordinance, or that person's authorized agent or representative.

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ARTICLE II - GENERAL LAND USE

SECTION 300 GENERAL LAND USE DISTRICTS AND REGULATIONS

SECTION 300-010. LAND USE DISTRICTS.

All land within the Town shall be considered to be within a single primary land use district as shown below. These land use districts are created in order to promote the orderly development of land, including the shoreland of its public waters, within the Town. Land Use permits are required for structures and additions to existing structures. See Section 1400-050.

The primary land use districts are as follows:

<u>Symbol</u>	<u>District Name</u>
CON	Conservation District
TR	Conservation Transition District
R-1	Residential District
R-2	Rural Residential District
AG	Agricultural District

There is also established for the Town the following overlay district:

<u>Symbol</u>	<u>District Name</u>
SH	Shoreland Overlay District

SECTION 300-020. OFFICIAL LAND USE MAP.

The land use map identifies the land that is within each zoning district established by this Ordinance. The official land use map of the Mantrap Township is located at the office of the Town Clerk, Nevis, Minnesota and at the Mantrap Township Hall, 23953 Co. 86, Nevis, MN. This map is incorporated in and made part of this Ordinance.

SECTION 300-030. INTERPRETATION OF LAND USE MAP.

Regardless of the existence of purported copies of the official Land use map which may from time to time be made or published, the official Land use map, which shall be located in the office of the Town Clerk, shall be the final authority on the current land use/status of land and water areas, buildings and other structures in the Town.

1. District Locations: The location and boundaries of the districts established by this Ordinance are set forth on the official Land use map. District boundary lines as indicated on the map follow lot lines, property lines, right-of-way or center lines of streets or alleys, right-of-way or center lines of streets or alleys projected, shorelines, all as they exist upon the effective date of this Ordinance. If said boundary lines do not follow any of the above, the district boundary lines are established as drawn on the official Land use map.
2. Vacated Rights-of-Way and Roadways: Whenever any street, alley or other public way is vacated in the manner authorized by law, the land use district adjoining each side of such street, alley or

public way shall be automatically extended to the center of such vacation and all included in the vacation shall be subject to all regulations of the extended districts.

3. Appeals: Appeals concerning the exact location of a land use district boundary line shall be heard by the Board of Appeals and Adjustments.

SECTION 300-040. USES NOT PROVIDED FOR WITHIN LAND USE DISTRICTS.

The uses allowed within a particular zoning district are listed in this Ordinance and there may be uses that are expressly prohibited within the zoning district. Whenever in any land use district a use is neither specifically permitted nor prohibited, the use shall be considered prohibited and it would be a violation of this Ordinance to undertake the use.

If a use is not listed in a zoning district, and is therefore prohibited, a property owner desiring to undertake the use may apply for an amendment to the text of this Ordinance to include the use among the list of allowed uses. The Town Board or the Planning Commission may, on their own initiative or upon request by property owner, conduct a study to determine if a particular use is acceptable and if so what land use district would be most appropriate; and to determine what standards or conditions may relate to development of the use. The Town Board, Planning Commission or property owner, may, upon completion of the study, initiate an amendment to this Ordinance to provide for a particular use under consideration or shall find that a particular use is not compatible for development within the Town.

If an owner believes a proposed use is substantially similar to use that is allowed within the district, the owner may submit an application to the Town, which fully explains the proposed use and why the person believes it is similar to an allowed use. The Town Board shall determine whether the use is substantially similar and, if so, whether the use shall be deemed a permitted, interim, conditional, or accessory use for the purpose of this Ordinance. If a use is allowed as being substantially similar to a listed use, the owner must apply for any required permits or permissions consistent with the Town Board's classification of the use. If a use is found to not be substantially similar, the owner may submit an application as provided herein to seek an amendment to the text of this Ordinance to expressly allow the use.

SECTION 300-050. 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 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 interim use permit; 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 conditional 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. The permit shall state the terminating date or event. An interim use permit is subject to revocation in the same manner as a conditional use permit. The temporary use must cease upon the termination or revocation of the interim use permit.

SECTION 300-060. USES ALLOWED BY STATUTE.

The legislature has adopted various provisions by statute requiring local governments to treat certain uses as permitted or conditional uses within their respective jurisdictions for the purposes of zoning regulations. Notwithstanding the general prohibition contained herein of uses not expressly allowed by this Ordinance, this Ordinance shall be interpreted as allowing those uses the legislature expressly requires the Town to allow. Such uses shall be classified as provided in the legislative mandate and shall only be allowed in those areas described in the applicable statute, and then only to the extent and scope as prescribed in the statute. For example, Minnesota Statutes, section 462.357, subdivision 7 requires a licensed day care facility serving 12 or fewer persons to be considered a permitted single family residential use of property. As such, this Ordinance shall be interpreted as allowing that specific use as a permitted residential use, but only up to a capacity of 12 persons. A proposed use that exceeds the scope described in the statute shall not be allowed unless the expanded use is expressly allowed in the particular zoning district by this Ordinance. Furthermore, if the statute indicates the use is to be allowed as a conditional use, the use may only occur upon the submission of an application and receipt of a conditional use permit from the Town. All mandated uses shall obtain a land use permit and all other permits and permissions as required by this Ordinance and all other applicable laws.

SECTION 300-070. 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 Town shall prepare the development agreement and it shall address, at a minimum, the standards and requirements for any areas proposed to be dedicated to the public, financial security for the construction of any public infrastructure, providing an escrow from which the Town may reimburse its administrative and professional costs, and such other matters as the Town Board determines are relevant to the particular proposed subdivision.

SECTION 400 SHORELAND OVERLAY DISTRICT (SH) REGULATIONS

SECTION 400-010. SHORELAND OVERLAY.

The Shoreland Overlay District includes those areas within the Town designated by Hubbard County Environmental Services as being within a shoreland area as defined by state law. The County maintains a map of shoreland areas within the Town. Land within the shoreland overlay district is subject to the regulations contained within this Ordinance applicable in the underlying primary zoning district and the regulations contained in the County's Shoreland Management Ordinance. An owner must comply with the strictest requirements in both sets of regulations and may be required to obtain permits from both the Town and the County.

SECTION 500 CONSERVATION DISTRICT (CON) REGULATIONS

SECTION 500-010. CONSERVATION.

The Conservation District, as defined, is administered by the Minnesota Department of Natural Resources (MN DNR) and Hubbard County Land Office.

SECTION 600 CONSERVATION TRANSITION (TR) DISTRICT REGULATIONS

SECTION 600-010. PURPOSE AND INTENT.

The Conservation Transition District is established for those lots-of-record currently under corporate or private ownership within the DNR or CAL administered lands. The Town recognizes that such ownership may not exist in perpetuity, as is the general practice for DNR or CAL administered lands (see Conservation District). Therefore, the Town Board has established this district as a "transition" to surrounding or adjacent land use districts should the land use change after the effective date of this Ordinance.

While there are no Town-prescribed minimum lot sizes or setbacks within the TR district, any private land use must conform to the abutting land use district regulations. If the lot-of-record abuts more than one land use district, the more restrictive land use district regulations apply.

SECTION 600-020. PERMITTED USES.

Permitted uses are the uses of the surrounding or abutting district such as Agricultural, Rural Residential, or Residential, whichever is more restrictive, apply to the TR district.

SECTION 600-030. CONDITIONAL USES.

Conditional uses are the conditional uses of the applicable district.

SECTION 700 RESIDENTIAL DISTRICT (R-1) REGULATIONS

SECTION 700-010. PURPOSE AND INTENT.

The Residential District is established to encourage the preservation of residential neighborhoods characterized primarily by single-family dwellings and to preserve undeveloped lands for similar types of residential development.

SECTION 700-020. PERMITTED USES.

The following uses are allowed as permitted uses:

1. One and two-family dwellings;
2. Public utility buildings, such as substations, transformer stations, and regulator stations without service or storage yards;
3. Home occupations conducted in a non-shoreland district as regulated in Section 1100-090;
4. State licensed residential facility registered under Chapter 144D serving 6 or fewer persons;
5. Licensed daycare facilities serving 12 or fewer persons;
6. Group family daycare facilities licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children;
7. Accessory buildings or structures and uses customarily incidental to any of the uses listed in this section when located on same lot;
8. Town hall;
9. Fire stations; and
10. Guest Cottages, subject to Section 1100-035.

SECTION 700-030. CONDITIONAL USES.

The following uses are allowed as conditional use with the issuance of a conditional use permit by the Town:

1. Multi-family dwellings;
2. Boarding houses;
3. Bed and breakfasts;
4. Public, parochial, private and nursery schools, churches, and community buildings;
5. Public or private hospitals, clinics, nursing homes, and health-care related facilities;
6. Funeral homes;
7. Parking lots;
8. Cemeteries;
9. Residential Planned Unit Developments;
10. Accessory uses and structures to above principal uses;

SECTION 700-040. AREA AND SETBACK REQUIREMENTS.

The following requirements shall apply to all structures in the Residential District. Requirements in Section 1100 Performance Standards, shall also apply.

1. Minimum Lot Size
 - a. One and two-family 2.25 Acres
 - b. Multi-family 2.25 Acres plus 1500 sq. ft./unit
2. Minimum Lot Width:
 - a. One and two-family 220 feet
 - b. Multi-family 220 feet
3. Maximum Building Coverage: 10%
4. Maximum Impervious Surface Coverage
 - a. One and two family 25%
 - b. Multi-family 25%

5. Minimum Setbacks:
 - a. Front yard: 65 feet
 - b. Side yard: 20 feet
 - c. Rear yard - Principal building: 20 feet
 - d. Rear yard - Accessory structures 10 feet
 - e. Structure setback from State and County Highway Right of Way 50 Ft.
 - f. Structure setback from right-of-way of other public roads 20 Ft.
6. Maximum Building Height:
 - a. Dwelling Units 35 feet
 - b. Accessory buildings 18 feet

SECTION 800 RURAL RESIDENTIAL DISTRICT (R-2) REGULATIONS

SECTION 800-010. PURPOSE AND INTENT.

The Rural Residential District is established to provide a buffer area for the preservation of agricultural activities, and to provide a low-density residential area where neighborhoods are characterized primarily by single-family dwellings.

SECTION 800-020. PERMITTED USES.

The following uses are allowed as permitted uses:

1. One and two-family ~~detached~~ dwellings;
2. Public utility buildings, such as substations, transformer stations, and regulator stations without service or storage yards;
3. Home occupations conducted in a non-shoreland district as regulated in Section 1100-090;
4. State licensed residential facility registered under Minnesota Statutes, chapter 144D serving 6 or fewer persons;
5. Licensed daycare facilities serving 12 or fewer persons;
6. Group family daycare facilities licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children;
7. Accessory buildings or structures and uses customarily incidental to any of the uses listed in this section when located on the same lot;
8. Town hall;
9. Fire stations; and
10. Guest Cottages, subject to Section 1100-035.

SECTION 800-030. CONDITIONAL USES.

The following uses are allowed as conditional use with the issuance of a conditional use permit by the Town:

1. Multi-family dwellings;
2. Boarding houses;
3. Bed and breakfasts;
4. Public, parochial, private and nursery schools, churches, and community buildings;
5. Public or private hospitals, clinics, nursing homes, and health-care related facilities;

6. Funeral homes;
7. Parking lots;
8. Cemeteries;
9. Residential Planned Unit Developments; and
10. Accessory uses and structures to above conditional uses;

SECTION 800-040. AREA AND SETBACK REQUIREMENTS.

The following requirements shall apply to all structures in the Rural Residential District. Requirements in Section 1100 Performance Standards, shall also apply:

1. Minimum Lot Size:
 - a. One and two-family: 5.0 Acres
 - b. Multi-family: 5.0 Acres plus 1,500 sq. ft./unit
2. Minimum Lot Width:
 - a. One and two-family: 300 feet
 - b. Multi-family: 300 feet
3. Maximum Building Coverage: 10%
4. Maximum Impervious Surface Coverage
 - a. One and two family: 25%
 - b. Multi-family: 25%
5. Minimum Setbacks:
 - a. Front yard: 65 feet
 - b. Side yard: 20 feet
 - c. Rear yard - Principal building: 20 feet
 - d. Rear yard - Accessory structure: 10 feet
 - e. Structure setback from State and County Highway Right of Way 50 feet
 - f. Structure setback from Right of Way of other public roads 20 feet
6. Maximum Building Height:
 - a. Dwelling Units: 35 feet
 - b. Accessory buildings: 24 feet

SECTION 900 AGRICULTURAL DISTRICT (AG) REGULATIONS

SECTION 900-010. PURPOSE AND INTENT.

The Agricultural District is established to protect those areas of the Town that have been used primarily for farming and agricultural use. No transition to more urban uses is projected in the future. While development is contingent upon private and public plans, availability of public utilities and services and compatibility with the Land Use Plan, this section does not provide for an agricultural transition area, but rather encourages an active farm use.

SECTION 900-020. PERMITTED USES.

The following uses are allowed as permitted uses:

1. Agriculture and general farming, including the raising of livestock, and poultry, dairying, horticulture, farm forestry, and similar agricultural enterprises, such as truck gardens and nurseries;
2. One-family and two-family residential dwellings;
3. Public conservation areas and public outdoor recreational areas, including boat accesses;
4. Beaches, playfields, and similar areas that do not fall under the provisions of the Hubbard County Shoreland Management Ordinance;
5. Public utility buildings, such as substations, transformer stations, and regulator stations without service or storage yards;
6. One temporary building for the sale of the produce of any of the above uses, located not less than twenty feet from the street or highway right-of-way;
7. Cemeteries, including pet cemeteries;
8. Home occupations conducted in a non-shoreland district as regulated in Section 1100-090;
9. Public, parochial, private and nursery schools, churches, and community buildings;
10. Accessory uses and structures customary to agricultural enterprises;
11. Playfields for baseball, basketball, soccer, volleyball, softball, football and similar sports activities;
12. Picnic areas, hiking trails, cross-country skiing trails, non-motorized biking trails, and similar activities;
13. State licensed residential facility registered under Minnesota Statutes, chapter 144D serving 6 or fewer persons;
14. Licensed daycare facilities serving 12 or fewer persons;
15. Group family daycare facilities licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children;
16. Town hall;
17. Fire stations; and
18. Guest Cottages, subject to Section 1100-035.

SECTION 900-030. CONDITIONAL USES.

The following uses are allowed as conditional use with the issuance of a conditional use permit by the Town:

1. Multi-family dwellings;
2. Golf courses, swimming pools, ice arenas, as well as other privately owned outdoor recreational areas;
3. Campgrounds, recreational vehicle parks;
4. Storage units;
5. Bed and breakfasts;
6. Animal clinics and dog kennels provided no structure or pen housing any animals shall be located within three hundred (300) feet of any residential land use;
7. Riding stables provided no structure housing horses shall be located within three hundred (300) feet of any residential land use;
8. Raising of fur bearing animals;
9. Airstrips;
10. Sawmills;
11. Communication towers;
12. Commercial energy production;

13. Temporary farm housing;
14. Accessory uses and structures to the above principal uses;
15. Landscaping and gardening stores; and
16. Telecommunication Towers as regulated in Section 1100-100.

SECTION 900-035. INTERIM USES.

The Town Board, following the procedures outlined in Section 1400-060 of this Ordinance, may permit the following uses with the approval of an interim use permit:

1. Extractive Uses - see Section 1300; and
2. Use of motorized vehicles, ATVs, snowmobiles, other machine-operated vehicles as part of an organized event or for a fee.

SECTION 900-040. AREA AND SETBACK REQUIREMENTS.

The following requirements shall apply to all structures in the Agricultural District. Requirements in Section 1100 Performance Standards shall also apply:

- | | |
|---|----------|
| 1. Minimum Lot Size: | 10 acres |
| 2. Minimum Lot Width: | 300 feet |
| 3. Minimum Lot Depth: | 200 feet |
| 4. Maximum Impervious Surface Coverage | 10% |
| 5. Minimum Setbacks: | |
| a. Front yard: | 65 feet |
| b. Side Yard - residential dwellings and accessory structures to residential uses: | 20 feet |
| c. Side Yard - all other permitted and conditional uses unless otherwise specified: | 25 feet |
| d. Rear yard - residential uses: | 10 feet |
| e. Rear yard - agricultural uses: | 25 feet |
| f. Structure setback from State and County Highway Right of Way | 50 feet |
| g. Structure setback from Right of Way of other public roads | 20 feet |
| 6. Maximum Building Height: | 35 feet |
| except for agricultural uses such as silos | |

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ARTICLE III - REGULATIONS APPLYING TO ALL DISTRICTS

SECTION 1100 PERFORMANCE STANDARDS

SECTION 1100-010. PURPOSE.

The performance standards established in this section are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. These standards are also designed to prevent and eliminate conditions that cause blight. Before any permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to the performance standards. An applicant shall supply such data as may be necessary to demonstrate such conformance.

The performance standards shall apply to future development and to existing development within compliance periods as noted in individual sections. Compliance may be waived by the Town if a building condition created under prior ordinances physically precludes the reasonable application of the standards.

SECTION 1100-020. STANDARDS FOR SINGLE-FAMILY AND TWO-FAMILY DWELLINGS AND PROPERTY.

The following standards shall apply to all single-family and two family dwelling units, unless specifically exempted:

1. All single-family and two-family dwellings shall have a minimum floor area of five hundred (500) square feet.
2. All single-family and two-family dwellings shall be attached to a permanent foundation.
3. All single-family and two-family dwellings, except mobile homes in a mobile home park, shall not be less than 25 feet in length and not less than 20 feet in width over that entire minimum length.
4. Only one principal structure is permitted per lot unless otherwise permitted by district regulations.

SECTION 1100-030. ACCESSORY STRUCTURES.

1. No accessory building or structure, unless an integral part of the principal building shall be constructed, altered, or moved within five (5) feet of the principal building.
2. In the Residential District (R-1), no accessory building shall exceed 18 feet in height.
3. In Rural Residential District (R-2), no accessory building shall exceed 24 feet in height.
4. Accessory structures are included in the building coverage and impervious surface coverage calculations.

SECTION 1100-035. GUEST COTTAGES.

One (1) guest cottage is allowed on lots meeting or exceeding the one-family and two-family lot area and width standards, provided the following minimum standards are met:

1. A guest cottage may only be allowed as an accessory structure to a conforming single-family dwelling;

2. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height unless such structure is constructed above a garage. In such cases the maximum height shall be 25 feet;
3. A guest cottage must be located and designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions;
4. A guest cottage must meet the setback requirements of the principal structure; and
5. A guest cottage cannot be used as a rental unit.

SECTION 1100-040. SANITATION STANDARDS.

Any premises used for human occupancy must be provided with an adequate method of sewage treatment and water supply, as follows:

1. For new construction, or if a land use permit is issued for an addition to an existing structure for a bedroom, bathroom or kitchen, the private sewage treatment system must meet or exceed the Hubbard County Environmental Service Department standards for individual sewage treatment contained in the County's regulations;
2. All public or private supplies of water for domestic purposes must meet or exceed the standards for water quality of the Minnesota Department of Health. Private wells must be located, constructed, maintained and sealed in accordance with the Water Well Construction Code of the Minnesota Department of Health;
3. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with County regulations.

Permits for private sewage treatment systems must be obtained from the Hubbard County Environmental Service Department, prior to construction.

SECTION 1100-050. EXTERIOR STORAGE.

In residential districts, all materials and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for the following:

1. Laundry;
2. Construction and landscaping materials currently being used on the premises;
3. Agricultural equipment and materials if these are used or are intended for use on the premises;
4. Firewood;
5. Fish houses in good repair;
6. Off-street parking of passenger automobiles and pick-up trucks in good operating condition;

7. Boats and trailers, less than 40 feet in length, are permissible if stored more than 10 feet distance from property line; and
8. RVs and campers and recreational equipment.

Existing uses shall comply within 12 months following enactment of this Ordinance. In other districts, no materials or equipment may be stored outside except those directly related to the principal use or those being used for construction on the premises.

SECTION 1100-060. REFUSE AND JUNK VEHICLES.

Hubbard County Solid Waste Ordinance # 18 is administered county wide by the Hubbard County Solid Waste Administrator.

SECTION 1100-070. MAINTENANCE.

All structures shall be properly maintained in a clean and acceptable manner so as not to constitute a nuisance or to negatively impact the public health, safety, convenience, general welfare, property values, and aesthetics.

SECTION 1100-080. FENCES.

This section shall apply to all fences constructed after adoption of this Ordinance.

1. All boundary line fences shall be entirely located upon the property of the person constructing such fence unless the owner of the property adjoining agrees, in writing, that such fence may be erected on the division line of the respective properties.
2. Fences shall not exceed six (6) feet in height in residential districts. Fences higher than these shall require a conditional use permit.
3. Any posts or similar structural member used in the construction of a solid board fence shall be constructed to face inward towards the property being fenced, so as not to be visible from adjacent properties. Fence designs which partially conceal posts and structural members such as alternating board and basket weave fences are exempt from this requirement.
4. Fences in the area between the ordinary high water mark and structure setback must meet Hubbard County Shoreland Ordinance requirements.
5. Fences normally associated with agricultural operations such as barbed wire fencing and snow fencing, fences surrounding home gardens, and driveway entrance markers shall be exempt from the requirements of this Ordinance.

SECTION 1100-090. SPECIAL PROVISIONS FOR TYPE II AND TYPE III HOME OCCUPATIONS.

Customary Type II home occupations shall be allowed with the issuance of a conditional use permit provided that they meet the following conditions. Type III home occupations must meet the provisions of this sections in addition to any standards or conditions prescribed by the Planning Commission in the issuance of an interim use permit:

1. Such occupation is carried on in the principle building and may not be conducted in an accessory building other than a private garage. In the Rural Residential and Agricultural Districts, such occupation can be conducted in an accessory building.

2. In the R-1 District, no more than twenty-five percent (25%) of the gross floor area of the residence or garage is used for this purpose. The Town may adjust this percentage based on the particular facts of the situation and shall indicate the allowed percentage in the permit issued for the occupation.
3. No articles for sale shall be displayed so as to be visible from the street unless permitted under the terms of permit issued by the Town.
4. Not more than three (3) persons other than those who reside on the premises may be employed.
5. No mechanical or electrical equipment shall be used if the operation of such equipment violates existing nuisance controls, creates a public nuisance, or otherwise interferes unreasonably with the desired quiet residential environment of the neighborhood or if the health and safety of the residents is endangered. No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.
6. Such occupation does not generate more than two (2) vehicles at one time.
7. Such occupation must provide off-street parking, but no more than two (2) spaces.
8. There shall be no exterior storage of equipment or materials used in the home occupation unless permitted under the terms of the permit issued by the Town. Personal automobiles used in the home occupation may be parked on site.
9. The approval of signage type and size will be set out in the permit issued by the Town.
10. No home occupation shall be conducted between the hours of 10:00 PM and 7:00 AM, unless said occupation is contained entirely within the principle building and does not require any on-street parking facilities.
11. An owner of a home occupation shall maintain adequate sewage treatment facilities, and shall provide documentation of compliance with the standards in this section upon request of the Planning Commission.
12. No home occupation shall require exterior or significant interior renovation or alteration not customarily found in dwellings except where required to comply with local and state fire and police recommendations.
13. Home occupations which create noise, odor, dust, electrical glare or vibrations discernible off of the premises shall not be permitted.

SECTION 1100-100. TELECOMMUNICATION TOWERS - PURPOSE.

The purpose of Sections 1100-100 through 1100-210 are to establish regulations that protect the public health, safety and general welfare of the Town. These regulations are intended to:

1. Facilitate the provision of telecommunications services and facilities including commercial wireless telecommunication services in the Town;

2. Minimize adverse visual effects of towers through careful design and site standards;
3. Avoid potential damage to adjacent properties from tower or antenna failure and weather-related occurrences through structural standards, careful site and setback requirements; and
4. Encourage the use of existing towers and buildings to accommodate commercial wireless telecommunication service antennas in order to minimize the number of towers needed to serve the Town.

SECTION 1100-110. DEFINITIONS.

Antenna: Any structure or device used for the purpose of collecting or radiating electromagnetic waves including, but not limited to, directional antennas such as panels, microwave dishes, satellite dishes and omnidirectional antennas such as whip antennas.

Commercial wireless telecommunication services: All commercial wireless telecommunications services including cellular, personal communications services, specialized mobilized radio, enhanced specialized mobilized radio, paging and similar services that are marketed to the general public.

Public utility: Persons, corporations or governments supplying gas, electric, transportation, water, sewer or landline telephone services to the general public. For the purpose of the Ordinance, commercial wireless telecommunications services shall not be considered a public utility use and are defined separately.

Search ring: The area for coverage requested by a wireless service provider.

Tower: A structure situated on a site that is intended for transmitting or receiving television, radio, telephone, cellular or wireless communications.

1. **Communication tower, freestanding, self-supporting:** A ground mounted tower consisting of a pole, spire, structure or combination thereof constructed without guy wires and anchors.
2. **Communication tower, guyed:** A tower that is supported in whole or part by guy wires and ground anchors.
3. **Communication tower, monopole:** A ground mounted tower consisting of a single pole constructed without guy wires and anchors.
4. **Tower height:** Determined by measuring the vertical distance from the point of contact with the ground to the highest point of the tower including all antenna or other attachments.

SECTION 1100-120. PERMITS REQUIRED.

It shall be unlawful for any person, firm or corporation to erect, construct in place, place or re-erect any tower, unless it shall replace a like tower, without first making application to the Town and securing a conditional use permit. A change in construction, dimension, lighting design or design type shall also require a conditional use permit. Routine maintenance of towers and related structures shall not require the issuance of a conditional use permit.

SECTION 1100-130. PERMIT REQUIREMENTS.

In addition to the information required elsewhere, applications shall include the following information:

1. A report from a licensed professional engineer that describes the commercial wireless telecommunication service tower's capacity, including the number and type of antennas that it can accommodate;
2. A letter of intent from the commercial wireless telecommunication service tower owner committing the tower owner and successors to allow, when possible the shared use of the tower;
3. The location of all public and private airports within a three (3) mile radius of the tower site;
4. FCC licensure and approval as required for various communications applications; and
5. For towers over 500 feet, an Environmental Assessment Worksheet (EAW) is required and the applicant shall be responsible to complete the EAW prior to the issuance of a permit from the Town.

SECTION 1100-140. TOWER SETBACKS.

Towers and all accessory structures or buildings shall conform to the following minimum setback requirements:

1. Towers shall be setback from all property lines an amount equal to the height of the structure. Tower setback may be reduced to within an approved engineered collapse zone as evidenced by a signed letter from a professional engineer.
2. Guy wires for towers shall be located no closer than 25 feet to any property line and shall meet the setback from the public right-of-way.
3. Suitable protective anti-climbing fencing, with a minimum height of four (4) feet shall be provided around any tower and guy wires.
4. Towers less than 199 feet in height shall be located a minimum of one-half (½) mile from the end of an airport clear zone as measured from the center point of the base of a free-standing tower.
5. Towers that are 199 feet or more in height shall be located a distance of at least three (3) miles from any public or private airport.

SECTION 1100-150. TOWER LOCATION.

Towers are allowed only on property zoned agricultural with a conditional use permit.

SECTION 1100-160. CO-LOCATION REQUIREMENTS.

All commercial wireless telecommunication towers erected, constructed or located within the Town shall comply with the following requirements:

1. Documentation of the area to be served including a search ring for the antenna location. A narrative describing a search ring for the request, with not less than one (1) mile radius clearly explaining why the site was selected, what existing structures were available and why they are not suitable as locations or co-locations.

2. Documentation that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower within the search ring of the service area due to one or more of the following reasons:
 - a. The planned equipment would exceed the structural capacity of the existing or approved tower, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned equipment at a reasonable cost;
 - b. Existing or approved towers within the search radius that cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer;
 - c. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower.

SECTION 1100-170. ACCESSORY UTILITY BUILDINGS.

All buildings and structures accessory to a tower shall:

1. Be architecturally designed to blend in with the surrounding environment and shall meet the height and setback limitations as established for the land use district in which they are located.
2. Have ground mounted equipment screened from view by suitable vegetation, except where a design of non-vegetative screen better reflects and compliments the architectural character of the surrounding neighborhood.

SECTION 1100-180. TOWER LIGHTING.

Towers shall be illuminated only as required by the Federal Aviation Administration (FAA) or the Federal Communications Commission (FCC) or state agency.

SECTION 1100-190. SCREENING AND LANDSCAPING REQUIREMENTS.

A screening and landscaping plan designed to screen the base of the tower, accessory utility buildings, utility structures and security fencing shall be submitted. The plan shall show the location, size, quantity and type of landscaping materials. Landscape materials shall be capable of screening all year and must be six (6) feet in height by the end of the second growing season. Gravel or other durable surface or other weed prevention measures shall be applied within the fenced area to prevent the growth of weeds. A maintenance plan for landscaped materials shall also be submitted.

SECTION 1100-200. UNMAINTAINED /ABANDONED TOWERS.

Unmaintained towers that do not meet current FCC standards shall be removed within 18 months of the cessation of operations at the site unless a time extension is approved by the Zoning Administrator. In the event that a tower is not removed within the 18 months of the cessation of operations at the site, the tower and associated facilities may be removed by the Town and the costs of removal assessed against the property.

SECTION 1100-210. NONCONFORMING TOWERS.

In order to avoid requiring new towers and to minimize the number of towers needed to serve the Town, the following provisions shall apply to nonconforming towers. Telecommunication towers in existence at the time of this amendment may be permitted to increase tower height after being issued a conditional

use permit. The Planning Commission shall consider the following criteria as part of the conditional use permit process:

1. Tower safety concerns including tower collapse, falling ice and airplane traffic;
2. Disturbance or conflict with agricultural uses on the property; and
3. Other factors which tend to reduce conflicts or are incompatible with the character and need of the area.

SECTION 1200 NONCONFORMING USES AND STRUCTURES

SECTION 1200-010. EXISTING USES.

A use or structure, including buildings, lawfully established, built or placed prior to the effective date of this Ordinance that does not conform to the requirements of this Ordinance shall be allowed to continue subject to the requirements of this section and Minnesota Statutes, section 462.357, subdivision 1e.

1. A nonconforming use or structure may not be expanded, enlarged, intensified, replaced, structurally changed, or relocated except as needed to make it a conforming use under this Ordinance. A prohibited expansion, enlargement, or extension shall include anything that increases the intensity of the structure or use including, but not limited to, a change to a more intense nonconforming use, a physical expansion of the existing use that increases the height, volume, or area dimensions of the nonconforming use, or an addition or expansion to an existing structure that creates, expands, or increases the nonconforming aspect, feature, or condition of the structure. Nothing in this Ordinance prohibits regular maintenance activities or making reasonable improvements to improve the safety or livability of an existing structure. Furthermore, an owner may be allowed to enlarge a nonconforming structure without obtaining a variance if the enlargement does not increase or intensify the aspect of the structure that makes it nonconforming. For example, an owner may be allowed to attach a deck to a dwelling that is nonconforming because it is located within a setback area, if the deck is located entirely outside of the setback areas and otherwise complies with this Ordinance.
2. A nonconforming use must be discontinued, and any future use of the land must comply with this Ordinance, if any of the following occurs: (1) the use is discontinued for more than one year; (2) the nonconforming structure is removed; or (3) the nonconforming structure is destroyed by no less than 50 percent of the structure's market value as indicated in the records of the County Assessor at the time of damage and no building permit has been applied for within 180 days of when the structure was damaged. When a nonconforming structure in a shoreland area as identified by the County with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, the structure setback may be increased by the Town or County, if practical. In that event, conditions may be placed on the zoning permit in order to mitigate impacts on adjacent properties and the water body.

SECTION 1200-020. NONCONFORMING LOTS.

A lot-of-record existing upon the effective date of this Ordinance that does not meet the minimum lot sizes may be used for the erection of a structure without meeting the minimum lot area and lot width requirements provided that all other requirements of this Ordinance, such as setbacks, and other requirements, such as septic and well requirements, are complied with.

SECTION 1300 EXTRACTIVE USES

SECTION 1300-010. ALL EXTRACTIVE USE OPERATIONS.

Extractive uses are permitted by obtaining an interim use permit. The Town Board may, as a condition of granting the interim use permit, impose such conditions on said use as it determines are necessary to protect the health, general well being, welfare and safety of the inhabitants of the Town and individuals neighboring the site of the extractive operation.

SECTION 1300-020. NEW EXTRACTIVE USE OPERATIONS.

New extractive uses are only allowed in the Agricultural Land Use District as interim uses. New extractive uses are not permitted within the Shoreland Overlay District. All new extractive uses must obtain an interim use permit from the Town. For the purposes of this Ordinance, a new extractive use is one established after May 1, 2009.

SECTION 1300-030. EXISTING EXTRACTIVE USE OPERATIONS.

Extractive uses that exist as of the date of the enactment of this Ordinance are allowed to continue in any district. They shall not be allowed to expand or intensify beyond the parcel or lot on which the present use is located without obtaining an interim use permit. Existing uses shall file a report with the Town within one year of the adoption of this Ordinance with information concerning the operation on the form required by the Town. An existing operation shall be defined as one that was established prior to the first effective date of this Ordinance and which has been in operation within the past 12 months or has an active lease existing on the property. Extractive uses issued a conditional use permit by the Town after the first effective date of this Ordinance and May 1, 2009 may continue to operate in accordance with the terms and conditions of the conditional use permit. Any proposed change or expansion of the use beyond what is allowed in the conditional use permit shall require an interim use permit.

SECTION 1300-040. TYPES OF EXTRACTIVE USES.

The application for an interim use permit shall specify the type of extractive use for which the applicant is applying. The type of extractive use that is approved by the Town will be specified in the interim use permit. Only the type of extractive use that is specified in the interim use permit will be permitted.

1. Extractive Use Type G1. Removal of top soil for commercial purposes, including peat and humus extraction and temporary borrow sites that are incidental to construction. There shall be no processing of materials or stockpiling of recyclable bituminous or demolition materials on the site. Extraction and reclamation must occur in the same construction season.
2. Extractive Use Type G2. All Type G1 uses and material removal only. Screening is allowed, but no other processing of the material is permitted. The site may be developed in phases. The site may also be used for stockpiling of screened materials.
3. Extractive Use Type G3. All Type G1 and G2 uses, and the site may also include crushing, screening, washing and processing of bituminous and demolition materials. Stockpiling of recyclable demolition and bituminous materials may also occur on the site.
4. Extractive Use Type G4. All Type G1, G2 and G3 uses, and the site may include hot mix asphalt operations and bituminous reprocessing.

5. Extractive Use Type GS. All Type GI, G2, G3 and G4 uses, and the site may include a ready mix concrete plant.

SECTION 1300-050. APPLICATION INFORMATION.

An application for an interim use permit for an extractive use shall be submitted to the Town on a form supplied by the Town. Information required for the application shall include, but not be limited to, the following:

1. A map of existing conditions on the entire site which includes areas within one mile of the site, which must include the property boundaries, contour lines at 10 foot intervals, existing vegetation, existing drainage and permanent water areas, existing structures, existing wells and individual sewage treatment systems, existing pipelines, power lines and other utilities and easements;
2. A written description of the extractive use and operations on the site, including the type of material to be extracted, mode of operation, estimated quantity of material to be extracted, plans for blasting and other pertinent information to explain the request and the proposed operation in detail;
3. Phasing plan and estimated timeframe to operate the site;
4. A description of all vehicles and equipment estimated to be used in the operation of the site, including a description of the estimated average daily and peak daily number of vehicles accessing the site;
5. A description of the measures that will be undertaken in order to control dust;
6. A description of the amount of existing natural screening that exists at the property lines and road right-of-way lines, along with a description of any safety barriers to be established to protect people and livestock from entering the site;
7. A general description of groundwater conditions, including the depth to groundwater on the site;
8. A recent survey of the property that includes the full legal description of the property and shows the location of all easements;
9. A reclamation plan;
10. A description of the site hydrology and drainage characteristics during extraction for each phase of extraction;
11. A site plan of the proposed operation including a statement of the total acreage showing the location of the structures to be erected, the location of the sites to be extracted showing the depth of proposed excavation, the location of processing areas and machinery to be used, the location of extracted materials storage (showing height of storage deposits), the location of vehicle parking, the location of explosive storage, the location of erosion and sediment control structures and the location of all haul routes;
12. The proposed hours and days of the week for operation broken down, to the extent applicable, for each type of activity proposed to occur on the property;

13. A description of the anticipated vegetative and topographic alterations on the property;
14. A description of the plan to mitigate potential impacts on wildlife and any neighboring cultural or archaeological sites;
15. A description of the site hydrology and drainage characteristics during extraction for each phase of extraction. Identify any locations where drainage of any disturbed areas will not be controlled on the property and the plans to control erosion, sedimentation, and water quality of the runoff;
16. A description of the potential impacts to adjacent properties resulting from the extraction and off site transportation, including, but not limited to, noise, dust, surface water runoff, groundwater contamination, drawdown of groundwater levels, traffic and aesthetics and a description of the plan to mitigate these potential impacts; and
17. Any other information or documentation required for issuance of an interim use permit under this Ordinance.

SECTION 1300-060. PERMITS REQUIRED.

In addition to applying for an interim use permit, the applicant shall obtain all such other permits and permissions as may be required by law, including from the Minnesota Pollution Control Agency, and provide the Zoning Administrator with evidence of having obtained such permits prior to issuance of the interim use permit. All required permits must be obtained prior to the start of extraction operations. Evidence of possession of and future adherence to applicable permit requirements must be presented to the Zoning Administrator upon reasonable request.

SECTION 1300-070. REVIEW CRITERIA.

The Town Board may deny an application for an extractive use interim use permit if it determines from a consideration of the application or other pertinent information that:

1. The surrounding roads do not have the ability to handle the size or number of vehicles that will be traveling to and from the site;
2. The air quality, dust and noise control measures that will be undertaken are insufficient to reasonably avoid adverse impacts on adjacent residential properties;
3. The groundwater will not be sufficiently protected;
4. The extraction operations will endanger the public safety;
5. The erosion and sedimentation control measures are insufficient;
6. The extraction operations will cause adverse impacts on surrounding wetlands or water bodies; The applicant is not able to implement all of the requirements of this Ordinance;
7. The extraction operation will create specific public health, safety, or welfare concerns that are not adequately addressed or mitigated in the proposed operation; or
8. The extraction operation is not compatible with surrounding land uses or the Comprehensive Plan.

SECTION 1300-080. SETBACK REQUIREMENTS.

Property Lines. No extractive use shall be carried on or any stock pile placed closer than 50 feet from any property line or road easement. A greater distance may be required by the Board where such is deemed necessary for the protection of adjacent property.

Equipment and Machinery. All equipment and machinery must be operated and maintained in such a manner as to minimize dust, noise and vibration. Power drives of power producing machinery, not including vehicles, shall not be housed or operated less than 500 feet from a residence in existence at the time of the application or less than 50 feet from the property line if the distance to the nearest residence is over 500 feet. All processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and bluffs in accordance with the structure setback requirements as set forth in this Ordinance.

SECTION 1300-090. PERFORMANCE STANDARDS.

The following performance standards apply to all extractive use sites in the Town:

1. Owner/Operator. The owner of this site shall be required to provide the Zoning Administrator written notice of each operator on the site. Any person or entity actively engaged in the extraction or processing of materials on the site shall be considered an operator. The notice shall include the name and address of the operator and the name and phone number of a contact person for the operator. Owners and operators, whether operators are lessees, independent contractors or otherwise, shall conform to the terms of the interim use permit and this Ordinance. A violation of this Ordinance or of the interim use permit shall be grounds for revocation of the interim use permit.
2. Shoreland. No new extractive use shall be established within a shoreland area as defined by Minnesota Rules, part 6120.2500, subpart 15.
3. Additional Uses. An extractive use site shall be solely used for operations directly related to the extractive use as provided in the interim use permit. Any proposal to expand or change use of the land from what is allowed by interim use permit shall require an amended interim use permit or such other Town approvals as required by law. Any other use will require approval by the Town Board. Vehicles, equipment or materials not associated with the extraction facility or not in operable condition may not be kept or stored on the site, except as specifically authorized in the interim use permit. Storage of asphalt and concrete products on the site is permissible provided that the storage is a part of an on-going recycling effort. Portable crushing, concrete mixing or asphalt production facilities for specific projects are also permitted to be stored on the site.
4. Haul Roads. The owner or operator shall be responsible for removal of any debris that is deposited by the hauling vehicles on the haul roads on a regular basis at its own expense. The owner or operator must also repair any damage caused to the haul roads by the hauling vehicles at its own expense.
5. Safety Precautions. Fencing or barriers adequate to reasonably preclude people from entering the site shall be installed and maintained around the perimeter of the site. An entry gate must be installed at all entrances to the site. "No Trespassing" signs must be placed every 250 feet around the perimeter of the site. "Trucks Hauling" signs must be placed by the owner or operator of the site along all Town roads a distance of not less than 500 feet from the entrance to the site. "Trucks Hauling" signs must be removed or covered by the owner or operator when the site is not in operation.
6. Blasting. If blasting will be performed on the site, the owner or operator must adhere to all applicable state, federal and local regulations relating to this activity.

7. Buffer. A vegetative buffer that is at least 50 feet in width must remain along the border of all of the property lines and road rights-of-way. No extraction activities shall take place within the buffer area and no vegetation shall be removed from this area. In cases where the natural screening will not be adequate to provide screening that would minimize the visual interruption of the surrounding landscape, the Town may require that the owner or operator construct an earthen berm that is at least 15 feet high. The Town may approve a buffer that does not meet the requirements of this Ordinance or allow extraction activities to take place within a buffer zone in situations where a haul road must be placed within the buffer zone for safety reasons or so that a haul road can be constructed in a location that will avoid wetlands.
8. Slopes. The non-working face of the pit shall be maintained at a slope not exceeding 2:1 except at cessation of operations when slopes shall not exceed 3:1. The working face of the pit shall be permitted a slope greater than 2:1 provided that by December 1st of each year all banks that are higher than 15 feet are rounded for safety purposes or are fenced. Permanent pits may be exempted from these requirements if the owner or operator can demonstrate to the Zoning Administrator that these safety measures are not needed in their particular circumstances or that other safety measures are more appropriate.
9. Erosion, Sediment Control and Soil Restoration. Before extraction operations cease each year, areas which have been exhausted of the material being extracted and topsoil has been removed shall be replaced with black dirt or native topsoil sufficient to support vegetation. Restored banks of excavation not backfilled shall not be steeper than 3:1. All banks and restored areas must be seeded and maintained in order to control erosion.
10. Excavation Below the Water Table. Excavation below the water table is allowed provided there is no adverse impact upon the quality and quantity of nearby surface water or wells and all applicable permits are obtained. The intent to excavate below the water table must be disclosed in the permit application.
11. Debris Removal. All trees, brush, stumps and other debris removed for the sole purpose of operation of the site shall be disposed of in a manner acceptable to the fire warden and the Hubbard County solid waste authority. There shall be no dumping or stockpiling of any materials on the site that are not related to the permitted extraction operation.
12. Noise. Maximum noise levels at the site must be consistent with the regulations established by the Minnesota Pollution Control Agency.
13. General Compliance. The owner and operator must comply with all federal, state, county and local laws and regulations applicable to the operation of the extraction facility, including, but not limited to the Minnesota Pollution Control Agency Regulations.

SECTION 1300-100. TERMINATION.

The interim use permit may be reviewed for compliance by the Planning Commission each year and by the Zoning Administrator at such other times as the Zoning Administrator determines is appropriate. Interim use permits shall terminate as of the date of termination or event of termination specified in the interim use permit. The interim use permit may be terminated earlier by the Town Board after notice to the owner or operator and a public hearing, upon its determination that any of the following events have occurred:

1. A violation of a condition under which the permit was issued; or
2. A determination that the facility has been inactive for a period of 12 months or more, which shall constitute a terminating event of the interim use permit.

SECTION 1300-110. RECLAMATION.

A reclamation plan must be submitted by the owner when applying for the interim use permit for approval by the Town. The reclamation plan must address reclamation both during operations and after closing.

Reclamation During Operations.

The owner or operator must perform the following reclamation activities during the course of operating the extraction facility:

1. All slopes must be stabilized;
2. Any unused equipment or structures must be removed;
3. A minimum of three inches of topsoil must be placed on all graded surfaces;
4. Soil restoration, seeding, and mulching must occur within each phase as soon as the final grades or interim grades have been reached. Processing, storage and staging areas are exempt from this requirement;
5. All pits and excavations must be guarded in such a manner that the banks do not pose a risk of caving or sliding;
6. The tops of all banks must be rounded in such a manner that they conform to the surrounding topography; and
7. All excavations must be properly drained, filled or leveled.

Closing Reclamation Plan.

The closing reclamation plan must meet the following minimum standards.

1. The site must be reclaimed within one year of the expiration of the interim use permit, or within one year of the cessation of operations. If the property is sold or transferred, reclamation must be completed prior to the date of the sale or transfer.
2. All buildings, structures and plants incidental to the operation must be dismantled and removed by the owner or operator.
3. The peaks and depressions of the site must be graded and backfilled to a surface which will result in a topography in substantial conformance to the surrounding land area and which will minimize erosion caused by rain. No finished slope shall exceed 3:1.
4. Reclaimed areas must be surfaced with soil of a quality at least equal to the topsoil of the surrounding area. Legumes and grasses must be planted. Trees and shrubs may also be planted, but not as a substitute for legumes and grasses. All plantings must adequately retard soil erosion, and be based on Hubbard County Soil and Water Conservation District recommendations.

5. Extractive use sites may also be reclaimed for wetland mitigation or creation. If it is the intent of the owner or operator to reclaim in this manner, the plans must be approved by the Town and Hubbard County Soil and Water Conservation District.

SECTION 1300-120. SECURITY.

The Town Board may require either the owner or operator of the site to post a bond, letter of credit or cash escrow in such form and sum as the Board shall determine. The security shall be in an amount the Town Board determines is sufficient to reimburse the Town for the costs and expenses associated with restoration as set forth in the conditions in the interim use permit. The Town Board shall review the security on an annual basis and may require that additional security be posted if necessary. A requirement to provide security, or the receipt of security, shall not obligate the Town to restore the site or provide any particular reclamation services. Furthermore, the Town makes no promises of warranties to the owner, operator, or others that it will perform any such services or, if it does, provide any reclamation, that the work is sufficient for any particular purpose.

SECTION 1350 CANNABIS BUSINESSES

SECTION 1350-010. PURPOSE AND AUTHORITY.

1. Purpose. The purpose of this Section is to protect the public health, safety, welfare of the Town's residents, and to promote the community's interest in reasonable stability in zoning, by regulating cannabis businesses within the legal boundaries of the Town.
2. Authority. The Town is authorized by Minnesota Statutes, section 342.13(c) to adopt reasonable restrictions on the time, place, and manner of the operation of a cannabis business, including the adoption of zoning regulations under Minnesota Statutes, section 462.357. The Town is also authorized to register cannabis businesses under Minnesota Statutes, section 342.22 and to regulate the use of cannabis in public places under Minnesota Statutes, section 152.0263, subdivision 5. The intent of this section is to comply with the provisions of Minnesota Statutes, chapter 342 and the rules promulgated thereunder. References to statutes shall include any amendments made to those sections and includes any successor provisions.

SECTION 1350-020. DEFINITIONS.

For the purpose of this Section, the following terms shall have the meaning given them below. Any term not defined in this subsection shall have the meaning given the term in Minnesota Statutes, section 342.01, or in the rules promulgated by the Minnesota Office of Cannabis Management, including any amendments made thereto.

Adult-Use Cannabis Product: Has the meaning given the term in Minnesota Statutes, section 342.01, subdivision 4.

Cannabis Business: Has the meaning given the term in Minnesota Statutes, section 342.01, subdivision 14, and includes all businesses listed thereunder. For the purposes of this Section, the term also includes hemp manufacturers and hemp retailers.

Cannabis Cultivator: A cannabis business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.30, or such other law as may apply, to cultivate cannabis.

Cannabis Event Organizer: A cannabis business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.39, or such other law as may apply, to hold temporary cannabis events.

Cannabis Manufacturer: A cannabis business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.31, or such other law as may apply, to manufacturing cannabis.

Cannabis Wholesaler: A cannabis business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.33, or such other law as may apply, to sell cannabis at wholesale.

Cannabis Retailer: A cannabis business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.32, or such other law as may apply, to sell cannabis at retail.

Cannabis Testing Facility: A cannabis business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.37, or such other law as may apply, to test cannabis.

Cannabis Transporter: A cannabis business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.35, or such other law as may apply, to transport cannabis.

Cannabis Deliverer: A cannabis business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.41, or such other law as may apply, to sell deliver cannabis.

Daycare: A location licensed with the Minnesota Department of Human Services to provide the care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

Hemp Manufacturer: A cannabis business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.43, or such other law as may apply, to manufacture lower-potency hemp edibles.

Hemp Retailer: A cannabis business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.43, or such other law as may apply, to sell lower-potency hemp edibles at retail.

Lower-Potency Hemp Edible: Has the same meaning given the term in Minnesota Statutes, section 342.01, subdivision 50.

Medical Cannabis Combination Business: A cannabis business licensed or endorsed by the Office of Cannabis Management under Minnesota Statutes, section 342.515, or such other law as may apply, to cultivate, manufacture, package, and sell cannabis.

Office of Cannabis Management: The Minnesota Office of Cannabis Management, which has the powers and duties set out in Minnesota Statutes, section 342.02.

Place of Public Accommodation: A business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

Public Place: A public park or trail, public street or sidewalk; any enclosed, indoor area used by the general public, including, but not limited to, restaurants; bars; any other food or liquor establishment; hospitals; nursing homes; auditoriums; arenas; gyms; meeting rooms; common areas of rental apartment buildings, and other places of public accommodation.

Residential Treatment Facility: Has the meaning given the term in Minnesota Statutes, section 245.462, subdivision 23.

School: A public school as defined under Minnesota Statutes, section 120A.05, or a nonpublic school that must meets the reporting requirements under Minnesota Statutes, section 120A.24.

SECTION 1350-030. ALLOWED USES.

1. Zoning Districts. Notwithstanding anything to the contrary in this Ordinance, the following uses are allowed in the identified zoning districts with the issuance of an interim use permit.

Use	Zoning Districts
Cannabis Retailer	Agricultural
Hemp Retailer	Agricultural
Cannabis Cultivator	Agricultural
Cannabis Manufacturer	Agricultural
Hemp Manufacturer	Agricultural
Cannabis Wholesaler	Agricultural
Cannabis Testing Facility	Agricultural
Cannabis Transporter	Agricultural
Cannabis Deliverer	Agricultural
Cannabis Event Organizer	Agricultural
Medical Cannabis Combination Business	Agricultural

2. Medical Cannabis Combination Business. A medical cannabis combination business shall, for the purposes of determining in which zoning districts the particular cannabis business may be located, be classified as a cannabis cultivator, cannabis manufacturer, and/or a cannabis retailer depending on the scope of its operations.

SECTION 1350-040. PERMIT REQUIRED.

No cannabis business shall operate within the Town without first obtaining an interim use permit from the Town in accordance with the provisions of this Ordinance.

SECTION 1350-050. BUFFER ZONES.

1. Buffer Distances. Except as provided below, no cannabis business shall be located or operate within:
 - a. 1,000 feet of a school;
 - b. 500 feet of a residential treatment facility;
 - c. 500 feet of a daycare facility; or

- d. 500 feet of an attraction within a public park that is regularly used by minors including, but not limited to, playgrounds and athletic fields.
2. Nonconforming. A cannabis business lawfully established and operating in a location may continue to operate as a lawful nonconforming use if a school, residential treatment facility, daycare facility, or park is established within the required buffer distance. A cannabis business that becomes nonconforming is subject to the restrictions in Minnesota Statutes, section 462.357, subdivision 1e.

SECTION 1350-060. PERFORMANCE STANDARDS.

Cannabis businesses shall comply with the performance standards and restrictions set out in this Section and with all other applicable Minnesota and local laws, rules, regulations, and ordinances.

1. Licensing. No cannabis business may operate within the Town unless it is licensed by the Office of Cannabis Management, and then only to the extent allowed by the licenses and endorsements issued to the cannabis business.
2. Registration. No cannabis business may operate within the Town unless it is currently registered with the County, if registration of the particular type of cannabis business is required under Minnesota Statutes, section 342.22. If the County acts to suspend the registration the cannabis business shall cease all activities associated with registered business until the registration is reinstated. If the County acts to cancel a registration, the cannabis business shall cease all activities associated with the registered business.
3. Town Ordinance. Every cannabis business shall comply with all applicable requirements of this Ordinance.
4. Building Code. Cannabis businesses shall comply with all applicable building and fire codes.
5. Hours of Operation. No cannabis business with a license or endorsement authorizing the retail sale of cannabis flower or cannabis products may sell cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products outside of the hours of operation established by the County. If the County does not establish specific hours of operation, the hours established in Minnesota Statutes, section 342.27, subdivision 7 shall apply.
6. Retail Sales. Any cannabis business licensed or endorsed to sell cannabis or lower-potency hemp edibles at retail shall comply with the following:
 - a. The owner shall include a copy of the operating plan required under Minnesota Statutes, section 342.32, subdivision 3 as part of the application materials for an interim use permit for the cannabis business; and
 - b. Comply with the prohibitions contained in Minnesota Statutes, section 342.27, subdivision 12 including, but not limited to, not operating a drive-through window, not dispensing products using a vending machine, and not making sales when the cannabis business knows that any required security or statewide monitoring system is not operational.
 - c. All parking areas, loading areas and access drives to parking and loading areas shall be durable and dustless.

7. Cannabis Cultivation. Any cannabis business licensed or endorsed to cultivate cannabis shall comply with the following:
 - a. The owner shall include a copy of the operating plan required under Minnesota Statutes, section 342.30, subdivision 3 as part of the application materials for an interim use permit for the cannabis business; and
 - b. Comply with the requirements in Minnesota Statutes, section 342.25 and all applicable rules established for such operations.
8. Lower-Potency Hemp Edibles. The sale of lower-potency hemp edibles are subject to the restrictions and requirements of this subsection.
 - a. The sale of lower-potency hemp edibles is only allowed in places that limit admission to persons 21 years of age and older.
 - b. Lower-potency hemp edibles shall be stored in a locked case and may only be sold behind a counter.
9. Prohibitions. No cannabis business shall operate in a manner that violates, or fails to comply with, the provisions of Minnesota Statutes, chapter 342, such other laws as may apply, and the following:
 - a. No cannabis flower, cannabis products, or hemp-derived consumer products in a manner that involves the inhalation of smoke, aerosol, or vapor shall be used at any location where smoking is prohibited under Minnesota Statutes, section 144.414; and
 - b. No cannabis business authorized to sell at retail shall sell any cannabis flower or cannabis products in violation of any of the prohibitions in Minnesota Statutes, section 342.27, subdivision 12.

SECTION 1350-070. CANNABIS EVENT PERMIT.

No cannabis event may occur within the Town unless the event organizer first obtains a cannabis event permit from the Town and complies with the requirements of this subsection and all applicable laws.

1. Consumption Prohibited. The consumption of adult-use cannabis products at a cannabis event is prohibited.
2. Permit Required. A cannabis business licensed by the Office of Cannabis Management to conduct temporary cannabis events may only conduct an event in a zoning district in which the use is allowed, and then only upon obtaining a cannabis event permit from the Town.
3. Application Process. Unless the interim use permit issued to a cannabis event organizer indicates otherwise, the following procedure shall apply for seeking a cannabis event permit for an event. A separate cannabis event permit is required for each event.
 - a. The applicant must complete and submit the Town's cannabis event permit application form together with the applicable fee at least 60 days before the start of the proposed event. Incomplete applications will be returned to the applicant without processing. If the proposed cannabis event constitutes a special event under the Town's regulations, the applicant is required to follow the applicable requirements to obtain a special events

license or permit, and such approval shall also constitute the cannabis event permit for the particular event.

- b. If approved, the cannabis event permit shall, at a minimum, indicate the event location, dates (not to exceed four days), daily operating hours, and the specific restrictions or requirements placed on the event. The types of restrictions and requirements placed on an event will vary depending on the anticipated size and may include, but are not limited to, traffic routing, parking, security, sanitation facilities, garbage, first aid, limitations on amplified music and public address systems, insurance coverages, and maximum attendance.
4. **Enforcement.** The Town may suspend or revoke a cannabis event permit if the event organizer fails to comply with the conditions placed on the permit in any material way after being informed of the violation and the need to correct it. The Town may deny issuing a permit to an event organizer that failed to comply with any cannabis event permit issued within the preceding three years.

SECTION 1350-080. PUBLIC USE OF CANNABIS.

No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp derived consumer products in a public place or a place of public accommodation, unless the premises is a cannabis business licensed by the Office of Cannabis Management for on-site consumption.

ARTICLE IV - ADMINISTRATION

SECTION 1400 ADMINISTRATION

SECTION 1400-010. ZONING ADMINISTRATOR.

The Town Board shall appoint a zoning administrator. The zoning administrator shall perform the following duties:

1. Enforce and administer the provisions of the Ordinance subject to any required approval by the Town Board;
2. Determine if an application is complete and ensure complete applications are processed and finally acted on in accordance with the timing requirements in Minnesota Statutes, section 15.99. The Zoning Administrator shall issue, within the time period provided in law, written notices of incomplete applications and what must be submitted to make an application complete. The Zoning Administrator is responsible for notifying applicants in writing of the Town's final decision on their applications.
3. Upon Board approval, the Zoning Administrator shall issue Land Use permits for activities which comply with the provisions of this Ordinance;
4. Maintain permanent and current records of this Ordinance, including but not limited to maps, amendments, variances and conditional uses which shall be on file at the office of the Zoning Administrator, with oversight of the Town Clerk;
5. Receive, file and forward, along with recommendations, all applications for appeals, variances, conditional uses or other matters to the proper designated official bodies;
6. Institute in the name of the Town, any appropriate actions or proceedings against a violator as provided for in the Ordinance, including but not limited to legal actions, and suspending or revoking permits;
7. Inspect development to ensure compliance with Ordinance; and
8. Serve as an ex-officio, non-voting member of the Planning Commission.

SECTION 1400-020. PLANNING COMMISSION.

There is hereby created a Planning Commission consisting of five (5) members appointed by the Town from among the property owners of the Town. The Town Board, consistent with the bylaws as adopted, and as set forth under Minnesota Statute, Chapter 462.351, shall appoint the members of the Planning Commission. The Planning Commission shall be advisory in nature, and shall serve at the pleasure of the Town Board.

The Planning Commission shall elect a Chairperson, Vice-Chairperson and Secretary from among its members. It shall adopt rules or bylaws for the transaction of its business and shall keep a permanent public record of its proceedings, findings and determinations. The Planning Commission shall cause all such records of its proceedings, findings and determinations to be filed at the office of the Town Clerk.

The Planning Commission, in its advisory role to the Town Board, shall:

1. Assist the Town Board in the formulation of goals, policies and programs for the future development of the Town;
2. Assist the Town Board in the preparation of development controls designed to promote development consistent with adopted goals and policies;
3. Review applications for conditional use permits, variances and Ordinance amendments, conduct public hearings in accordance with the provisions of the Ordinance, and make recommendations to the Town Board;
4. Perform other such duties as required or requested by the Town Board to further the intent, goals, and policies of this Ordinance.

SECTION 1400-030. THE BOARD OF APPEALS AND ADJUSTMENTS.

The Mantrap Township Board shall serve as the Board of Appeals and Adjustments. The Board of Appeals and Adjustments shall act upon all questions as they may arise in the administration of this Ordinance.

The Board of Appeals and Adjustments shall elect a Chairperson and Vice-Chairperson from among its members. It shall adopt rules or bylaws, for the transaction of its business and shall keep a permanent record of its proceedings, findings and determinations. The Board of Appeals and Adjustments shall cause all such records of its proceedings, findings and determinations to be filed at the office of the Town Clerk.

The meeting of the Board of Appeals and Adjustments shall be held as specified in the rules or bylaws, and at other such times as the Chairperson of the Board shall deem necessary and appropriate.

The Board of Appeals and Adjustments shall have the exclusive power concerning the following:

1. To grant variances from the strict enforcement of standards and provisions prescribed by this Ordinance. variances shall only be granted based upon the criterion prescribed in Section 1400-040 of this Ordinance;
2. To hear and decide any appeal from an order, requirement, decision or determination made by the Zoning Administrator;
3. To interpret any district boundary on the official Land use map;
4. All decisions by the Board of Appeals and Adjustments in granting variances, or in hearing any appeals from administrative order, requirement, decision or determination shall be final except that any aggrieved person, department, agency, Board or Commission shall have the right to appeal to the District Court within thirty (30) days after receipt of the notice of the decision made by the Board of Appeals and Adjustments.

SECTION 1400-035. 60-DAY RULE.

The Town will process and act on applications submitted to it in accordance with the timelines established in Minnesota Statutes, section 15.99. If an application is incomplete, including not providing the required fees and, if required, escrow amounts, the Town will notify the applicant within 15 business days from the date of submission that the application is incomplete and identify the additional material needed to make it complete. The time period to act on the application does not begin to run until the application is made complete. The Town will notify an applicant in writing of its final decision on its application.

SECTION 1400-040. VARIANCES.

The Town Board, sitting as the Board of Appeals and Adjustments, shall have the exclusive power to order the issuance of variances from the strict compliance with the requirements of this Ordinance, including restrictions placed on nonconformities. All such variances shall be granted only in accordance with Minnesota Statutes, section 462.357, subdivision 6. variances shall only be permitted where the strict enforcement of this Ordinance would cause practical difficulties because of circumstances unique to the individual property under consideration and when they are in keeping with the spirit and intent of this Ordinance. As used in connection with a decision as to whether to grant a variance, practical difficulties mean that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute a practical difficulty.

The Planning Commission shall consider the criteria set forth below when hearing and making a recommendation to the Board of Appeals and Adjustments upon a variance request.

1. Has the applicant demonstrated the existence of sufficient practical difficulties to allow the granting of the requested variance?
2. Are there exceptional circumstances unique to this property, which were not created by the landowner?
3. Can the variance be granted without violating the spirit and intent of this Ordinance?
4. Can the variance be granted without altering the essential character of the surrounding area?
5. Does the need for a variance involve more than just economic considerations?

The Planning Commission must make an affirmative finding on all of the criteria listed above in order to make a recommendation to the Board of Appeals and Adjustments to grant a variance. The applicant for a variance has the burden of proof to show that all of the criteria listed above have been satisfied. A variance shall not be granted for a use that is not permitted under this Ordinance in the district in which the property is located.

The Board of Appeals and Adjustments may impose conditions upon a variance that relate to the purposes and objectives of this Ordinance and to protect adjacent properties. All such conditions must be directly related to and must bear a rough proportionality to the impact created by the variance. Failure to comply with any conditions imposed on a variance may result in an enforcement action which may include, but is not limited to, the revocation of the variance. The Town will provide at least 10 days notice to the landowner and provide the landowner an opportunity to be heard before acting to revoke a variance.

Procedure for applying for a variance.

1. An applicant desiring a variance shall fill out and submit to the Zoning Administrator a completed variance request form, copies of which are available from the Zoning Administrator or Town Clerk. As part of the application process, it is understood that the applicant grants the Town reasonable access to his/her property to engage in a review and inspection. When such an application is

properly filed, and fee paid, it shall be reviewed for completeness by the Zoning Administrator before it can be considered by the Planning Commission.

2. The Zoning Administrator shall forward the application, together with the Zoning Administrator's written recommendation, to the Planning Commission. If, however, the variance request relates to property within the Shoreland Overlay District, requires a variance from the County Shoreland Ordinance, and the Zoning Administrator determines it may satisfy the criteria in this paragraph, the Zoning Administrator shall forward the application directly to the Town Board. The Town Board may waive the need to obtain a Town variance and simply concur with the County's process and decision, if the following criteria are met:
 - a. The entire parcel is subject to the requirements in the County's Shoreland Management Ordinance;
 - b. The variance is not an after-the-fact variance;
 - c. The variance does not involve a Town road; and
 - d. The variance is for a County requirement that is identical to the Town requirement.

If the Town Board finds the criteria are not met, it shall forward the application to the Planning Commission for its review and recommendation as provided herein.

3. The Planning Commission shall hold a public hearing on the requested variance after providing at least 10 days published notice. Notice shall also be mailed at least 10 days prior to the hearing to each owner of affected property and property situated wholly or partly within 1500 feet of the property to which the variance relates.
4. The Planning Commission shall forward its recommendation and findings regarding the application to the Board of Appeals and Adjustments. If it recommends approval of the variance, the Commission may propose conditions it considers necessary to protect the public health, safety and welfare.
5. The Board of Appeals and Adjustments will act to make a final decision on the variance request and determine the conditions to be placed on the variance, if any.
6. An application for a variance shall not be resubmitted for a period of six months following denial, unless the Town Board finds that the new request is substantially different than the denied request.
7. Variance requests that have been approved shall be recorded in the office of the Hubbard County Recorder at the applicant's expense.

SECTION 1400-045. APPEALS

1. Administrative Appeal. An appeal may be taken by a person aggrieved from an alleged error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Ordinance. The appeal shall be made by filling out and submitting to the Zoning Administrator an application for appeal, which is available from the Zoning Administrator or Town Clerk, together with the required fee. The application must be submitted to the Town within 30 days from the date of the order, requirement, discussion, or determination being appealed. The Board of Appeals and Adjustments shall provide the applicant at least 10 days'

notice of hearing to consider the appeal. The Board of Appeals and Adjustments shall prepare a written record of its decision and it shall inform the applicant of its decision. The decision of the Board of Appeals and Adjustments shall be a final order regarding the appealed matter.

2. Final Decision Appeal. Appeals from a final decision of the Town Board or the Board of Appeals and Adjustments are to be made to the district court in accordance with Minnesota Statutes, section 462.361. No such appeal shall be permitted unless it is served on the Town within 20 days of the date of the order or decision being appealed and is filed with the court within 30 days of the date of such order or decision.

SECTION 1400-050. LAND USE PERMITS.

No owners, contractors, subcontractors, builders or other persons shall take any action regulated by this Ordinance without first obtaining necessary permits.

No structure, or additions to existing structures, shall be erected or placed without the issuance of a duly authorized land use permit with the following exceptions:

1. Separate structures less than 100 square feet in footprint (not attached to an existing structure less than 100 square feet in footprint);
2. Structures that are set up for a duration not to exceed 90 days per year;
3. Licensed fish houses; and
4. Playhouses and tree houses.

An authorized agent of the owner or occupant may make an application for the necessary permit or permits. A Land Use Permit shall be issued by the Zoning Administrator only when the applicant has met all requirements of this Ordinance. In the event any of the following permits are required, such as Conditional Use, variance, or Planned Unit Development Permit, such applications will be processed by the Zoning Administrator in accordance with procedures within this Ordinance. The accuracy and completeness of the application and accompanying documents are solely the responsibility of the applicant. No permit application will be approved from landowners, or their agents, on which there are unresolved violations, also including delinquent taxes or charges. This includes receiving a permit for septic upgrades prior to the issuance of another permit such as a variance, Conditional Use, or Land Use permit, etc.

All land use permit applications shall be examined and processed within thirty (30) days of receipt of such application unless a time limit for such processing is extended by the Board of Adjustment.

All land use permits shall expire one (1) year from the date of issue. An extension because of extenuating circumstances may be granted by the Planning Commission. All such permits shall be non transferable.

After the appropriate fee has been paid, and if the proposed activity does not conflict with any portion of this Ordinance, the permit shall be granted. If the permit is not granted, the reasons for such denial will be provided, in writing, to the applicant.

Any violation of the terms and conditions of the permit issued pursuant to this Ordinance, or of the violation of any provisions of this Ordinance relating to the subject matter of the permit, shall result in the

immediate revocation of such permit by the Zoning Administrator. The revocation of a permit may be appealed to the Board of Appeals and Adjustments as provided herein.

SECTION 1400-060. CONDITIONAL USE PERMITS.

Any use shown as a Conditional Use in this Ordinance shall be permitted only upon application to the Zoning Administrator, review and recommendation of the Planning Commission, and approval and issuance of a conditional use permit. The applicant for a conditional use permit shall complete in-full and submit to the Zoning Administrator an Application for conditional use permit. Applicants shall have no pending violations. As part of the application process it is understood that the applicant grants the Town reasonable access to his/her property to engage in a review and inspection. When such permit is completed and submitted, the appropriate fee shall be paid in order for the application to be considered complete and to receive consideration by the Planning Commission. The Zoning Administrator and the Planning Commission prior to consideration of the permit shall conduct a thorough site evaluation.

In considering the granting of any conditional use permit throughout the Town, the Planning Commission and Town Board shall evaluate the effect of the proposed use upon:

1. The maintenance of the public health, safety and welfare;
2. The location of the site with respect to existing and proposed access roads;
3. Its compatibility with adjacent land uses;
4. Its compatibility with the intent of the zoning district in which such use is proposed; and
5. Its compatibility with the objectives of this Ordinance and its consistency with the Land Use Plan.

Upon consideration of the factors listed above, the Planning Commission may attach such conditions, in addition to those required elsewhere in this Ordinance that it deems necessary for the furtherance of the purposes set forth in this Ordinance. Such conditions attached to conditional use permits may include, but shall not be limited to, the following:

1. Increased yards and setbacks;
2. Periods and/or hours of operation;
3. Minimum number of off-street parking spaces;
4. Type of construction;
5. Deed restrictions;
6. Landscaping and vegetative screening;
7. Type and extent of ground cover;
8. Specified sewage treatment and water supply facilities;
9. Location of signs, and parking;

10. Any other reasonable requirements necessary to fulfill the purposes and intent of this Ordinance.

An applicant for a conditional use permit may be required to furnish the Planning Commission, in addition to the information required for the building or other permit, the following:

1. A plan of the proposed project area showing contours, soil types, ground water conditions, bedrock, slope, and vegetative cover;
2. Location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, open spaces and vegetative cover;
3. Plans of buildings, sewage treatment facilities, water supply systems, and arrangements of operations;
4. Specifications for areas of proposed grading, filling, dredging, lagooning, or other topographic alterations;
5. Other pertinent information necessary to determine if the proposal meets the requirements and intent of this Ordinance.

The Planning Commission and the Town Board, in evaluating each conditional use applicant may request the Hubbard County Soil and Water Conservation District to make available expert assistance to assist in the evaluation and consideration of such application.

Procedure for applying for a conditional use permit.

1. An applicant desiring a conditional use permit shall fill out and submit to the Zoning Administrator a completed conditional use permit Request Form, copies of which are available from the Zoning Administrator or the Town Clerk. As part of the application process, it is understood that the applicant grants the Town reasonable access to his/her property to engage in a review and inspection.
2. The Zoning Administrator shall make a written recommendation regarding the request and forward it to the Planning Commission together with the application for its review.
3. The Planning Commission shall hold a public hearing on the application after providing at least 10 days published notice. Notice shall also be mailed at least 10 days prior to the hearing to each owner of affected property and property situated wholly or partly within 1500 feet of the property to which the conditional use relates.
4. The Planning Commission shall forward its recommendation to the Town Board together with its findings. If it recommends issuance of the conditional use permit, the Planning Commission shall include any conditions it considers necessary to protect the public health, safety and welfare.
5. The Town Board will make the final decision on the application. If it grants the conditional use permit, the Town Board may impose conditions it considers necessary to protect the public health, safety and welfare. If it denies the application, it shall provide written reasons for the denial at the time of the final decision on the denial.

6. An application for a conditional use permit shall not be resubmitted for a period of six months following denial, unless the Town Board determines that the new request is substantially different than the denied request.
7. conditional use permits issued shall be recorded in the office of the Hubbard County Recorder at the applicant's expense.

Existing conditional use permits.

Any change involving structural alterations, enlargement, intensification or scope of use, or similar change not specifically permitted by the original conditional use permit issued shall require a new or amended conditional use permit and all procedures shall apply as if a new permit was being requested. The Zoning Administrator shall maintain a record of all conditional use permits issued including information on the use, location, and conditions imposed by the Town Board, review dates, and such other information as may be appropriate.

SECTION 1400-065. INTERIM USE PERMIT.

The purpose of this Ordinance is to allow interim uses under specific and regulated conditions. Interim uses may be allowed by permit if the following conditions are met:

1. The use conforms to the zoning regulations;
2. The date or event that will terminate the use can be identified with certainty;
3. Allowing the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
4. The user agrees to the conditions the Town Board deems appropriate for permission of the use.

Application.

The applicant shall submit an application for an interim use permit to the Zoning Administrator, which is available from the Zoning Administrator or the Town Clerk. The application shall be accompanied by the following information and documentation:

1. A legal description of the property;
2. Identification of the owner and user, if different;
3. A site plan, including location of all buildings, driveways, parking areas, septic systems, drain fields, wetlands and easements;
4. The names of each owner of property situated wholly or partly within 1500 feet of the property to which the interim use relates;
5. A statement of the date or event that will terminate the use;
6. An application fee as set forth in the Town fee schedule; and
7. Such other information as the Town deems necessary or desirable.

Review.

Upon receipt of an application for an interim use permit, the Zoning Administrator shall review the material submitted and determine whether the application is complete. If the application is not complete, the Zoning Administrator shall notify the applicant in writing and shall specify the additional documentation or information that the applicant will be required to submit before the application will be considered complete. When the application is complete, the Zoning Administrator shall refer the matter to the Planning Commission for review and a public hearing.

Planning Commission Review; Public Hearing.

The Planning Commission shall review the proposed interim use permit on the basis of the information and documentation submitted by the applicant and any other information available to it. The Planning Commission shall hold a public hearing on the proposed interim use. Notice of the time, place and purpose of the hearing shall be published in the Town's official newspaper at least 10 days prior to the date of the hearing. Notice shall also be mailed at least 10 days prior to the hearing to each owner of affected property and property situated wholly or partly within 1500 feet of the property to which the interim use relates. However, any defects in the mailed notice shall not affect the Town's ability to consider and act on the application or on the validity of the permit if issued.

The Planning Commission shall review the proposed interim use to determine whether it is consistent with the requirements of this Ordinance. Following the public hearing, the Planning Commission shall recommend that the interim use permit be approved with conditions or denied. The Planning Commission shall forward its recommendation to the Town Board along with a list of suggested conditions if it recommends approval of the permit.

Town Board Review: Amendment.

The Town Board shall consider the report of the Zoning Administrator, the recommendation of the Planning Commission, and may consider any additional information or conduct such additional review as it determines would serve the public interest. The Town Board shall approve with conditions or deny the interim use permit. The Town Board shall condition its approval in any manner it deems reasonably necessary in order to promote public health, safety or welfare and to achieve compliance with this Ordinance. The Town Board may require the applicant to enter into an agreement including such provisions as it deems reasonably required to ensure compliance with this Ordinance and the terms and conditions of the Town's approval.

An application to amend an approved interim use permit shall be reviewed under this section in the same manner as an initial application for an interim use permit.

Termination.

An interim use shall terminate upon the date or the occurrence of an event established in the permit or upon such other conditions specified by the Town.

Notwithstanding anything herein to the contrary, an interim use may be terminated by a change in zoning regulations applicable to the use or land upon which it is located.

SECTION 1400-070. AMENDMENTS.

The Town Board may adopt amendments to this Ordinance and Land Use Map in relation to land uses within a particular district or to the location of the district lines. The procedure for amendments to this Ordinance shall be as follows:

1. An amendment may be initiated by a property owner, the Planning Commission, or the Town Board. An amendment proposed by the Planning Commission shall be forwarded to the Town Board for a determination on whether it shall be processed as provided in this section. An amendment proposed by the Town Board shall be sent to the Planning Commission for a public hearing and a recommendation as provided in this section.
2. Property owners wishing to initiate an amendment shall fill out an application for amendment form, available from the Zoning Administrator or Town Clerk. Such applications shall be filled out and submitted to the Zoning Administrator together with the appropriate fee. As part of the petition process, it is understood that the petitioner grants the Town reasonable access to his/her property to engage in a review and inspection.
3. The applicant shall appear before the Planning Commission to answer any questions that Commission members may have concerning the amendment.
4. The Planning Commission shall conduct a public hearing on the requested amendment after providing at least 10 days published notice.
5. After the public hearing, the Planning Commission shall make and forward its recommendation on the proposed amendment to the Town Board together with its findings.
6. The Town Board shall consider the recommendation of the Planning Commission and make the final decision on the requested amendment. The Town Board has the discretion to alter the requested amendment in any way it determines is in the best interests of the Town.
7. No application of a property owner for an amendment to the text of the Ordinance or the zoning map shall be considered by the Planning Commission within the one (1) year period following a denial of such request, except a new application may be allowed if the Town Board determines there is sufficient new evidence or a change of circumstances to warrant consideration of the proposed amendment.
8. Amendments adopted by the Town Board shall be recorded in the office of the Hubbard County Recorder at the applicants expense.

SECTION 1400-080. PUBLIC NOTICE AND HEARING REQUIREMENTS.

In addition to the procedures described in preceding sections of this Ordinance, all conditional use permit requests, variance requests, and requests for amendments shall be reviewed at a public hearing conducted at least 10 days following official public notification including publication in the official newspaper of the Town and notification of all property owners within the following distances from affected property when such notice is applicable. In the case of variances, conditional use permits, and interim use permits all property owners within 1500' of the property or 10 surrounding property owners, whichever includes the most property owners, must be notified by mail of the public hearing. In the case of a proposed amendment which involves changes in district boundaries of five acres or less, all owners of property within one-half (1/2) mile must be notified.

SECTION 1400-090. ENFORCEMENT AND PENALTIES.

1. The applicant's signature on a completed application grants the Zoning Administrator, or his or her agent, the right, at all reasonable times, to enter upon private property for the purpose of administration or enforcement of this Ordinance. This includes the right to conduct investigations, sampling, test borings, and other actions necessary for the enforcement of this Ordinance. Refusal to allow reasonable access shall be deemed a separate and distinct offense, whether or not any other specific violations are cited.
2. In the event any person commences any use of land or of a structure that requires a permit under the provisions of this Ordinance prior to the issuance of such permit, or otherwise violates this Ordinance, the Town, its Zoning Administrator, or attorney may issue a written cease and desist order, stop work order, corrective order, or similar order to prohibit continuation of the activity until the required permits are obtained or until the property is otherwise brought into compliance with this Ordinance. Once an order is issued, the activity shall not be resumed until the violation is corrected and the Town lifts the order. If the required permits are not obtained, or if the work or use is not allowed by the Ordinance, the person shall be ordered to permanently abate all activities not permitted under this Ordinance. The order may require the person to restore the property including, but not limited to, the removal of all structures or buildings constructed in violation of the provisions of this Ordinance.
3. In the event of violation or threatened violation of this Ordinance, the Town Board, in addition to other remedies including criminal prosecution, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the Town Board to institute such action.
4. The imposition of civil and/or criminal penalties is provided for under Minnesota law. Use of a civil remedy shall not prevent a criminal prosecution for the same violation. Accordingly, a criminal prosecution for a violation shall not be a bar to a civil remedy. Violator(s) will be responsible for the cost of prosecution, which shall comprise: attorney's fees, cost, and expenses, filing fees, expert fees, and Town administrative cost.
5. Any person, firm or corporation who shall violate any of the provisions herein, or who shall fail to comply with any of the provisions herein, or who shall make any false statement in any document required to be submitted under such provision, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by such penalties and fines as provided by law. Each day that the violation continues shall constitute a separate offense.

Adopted this 12th day of May 2025.

BY THE TOWN BOARD

//SIGNED by Kimberly Olson//
Chairperson

Attest: //SIGNED by Alexis King//
Clerk