



# Zoning Ordinance

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## SECTION 1 TITLE

The name of this ordinance is *Ordinance No. 400 Empire Township Zoning Ordinance*, except as referred to herein as “this Ordinance.”

## SECTION 2 PURPOSE

This Ordinance is enacted for the following purposes:

- To protect and promote the public health, safety, and welfare;
- To protect and preserve lands identified for long-term agricultural use;
- To conserve and manage natural resources and renewable energy sources in the Township;
- To divide Empire Township into zones and districts to regulate land uses and improvements on the land;
- To promote orderly development of the agricultural, residential, business, recreational and public areas;
- To provide for adequate light, air and convenience of access to property through district regulations and performance standards;
- To provide for the compatibility of different land uses;
- To limit congestion and promote safety in the public rights-of-way;
- To guarantee the safe operation of public and private water and sewer systems;
- To accommodate adequate public utilities, services and facilities;
- To protect the quality of life in the Township;
- To protect the values of property; and
- To provide for the administration and enforcement of this Ordinance.

## SECTION 3 DEFINITIONS

Words and terms, as they occur in this Ordinance, shall be defined in accordance with the definitions in this section. Other words and terms used in this Ordinance, but not defined in this section shall have a common dictionary or customary meaning.

**Abandoned vehicle** - A vehicle which is stored outdoors and has not had a valid registration for a period of thirty (30) or more days.

**Accessory use** - A use or structure, or portion of a structure, subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

**Agricultural parcel** – An area of land in contiguous ownership not less than twenty (20) acres in size and which is used primarily for agriculture.

**Agricultural service establishments** - Land uses primarily engaged in performing services for agriculture including but not limited to corn shelling, hay baling and thrashing; assembling fruits and vegetables for the grower; agricultural produce cleaning, milling, processing, and storage; greenhouses; farm equipment service and repair; veterinary services; boarding and training of horses; the operation of game farms; and other similar agricultural services.

**Agriculture** - crop production, fruit and vegetable growing, animal husbandry and livestock

operations, dairy production, forestry and nurseries, horticulture, bee raising, and similar farming activities.

**Animal Unit** - A unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer. For purposes of this rule, the following equivalents shall apply:

<u>Dairy</u>	<u>No. of Animal Units</u>
one calf (less than 500 lbs.)	0.2
one young-stock (500-1000 lbs.)	0.7
one heifer	1.0
one cow	1.4
<u>Beef</u>	
one calf (less than 500 lbs.)	0.2
one cow/calf unit	1.2
one cow, slaughter steer or heifer	1.0
<u>Swine</u>	
one swine (less than 55 lbs.)	0.05
one swine (55 lbs. or more)	0.4
one sow with piglets less than 14 days old	0.4
<u>Turkeys</u>	
one pullet	0.005
one hen or tom	0.018
<u>Chickens</u>	
one pullet	0.002
one layer or broiler	0.01
<u>Horses</u>	
one horse	1.0

For animals not listed above, the number of animal units shall be defined as the average weight of the animal, divided by 1,000 pounds.

**Assembly, production, and packaging** - The creation of new products through combining and assembling finished or semi-finished materials and the packaging of products for sale and distribution.

**Basement** - A portion of a building located partly underground with more than half of its floor to ceiling height below the average grade of the adjoining ground.

**Berm** - A shelf or raised flat area that breaks the continuity of the slope of the land.

**Best Management Practices** - The Minnesota Pollution Control Agency's urban best management practices entitled "Water Quality in Urban Areas."

**Board of Supervisors** - the elected governing body of Empire Township.

**Buildable Area** - A contiguous area of a lot without municipal utilities, meeting the following minimum characteristics:

1. The area is at least one acre in size,
2. The area width to depth ratio does not exceed 2:1 and is not less than 1:2,
3. The area abuts a public road, a public frontage road, or an approved private access drive,
4. The lot which contains the buildable area must meet all ordinance dimensional standards,
5. The area is not encumbered by a wetland or 100-year floodplain,
6. The area must be capable of supporting a private sewage treatment system,
7. The historical high water table shall not be within six feet of the lowest floor elevation.

**Building** - A structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals or personal property.

**Building height** - The vertical distance measured from the mean curb level along the front lot line or from the mean ground level for all of the portion of the structure having frontage on a public right-of-way, whichever is higher, to the:

- highest point of the coping of a flat or shed roof, or
- to the deck line of a mansard roof, or
- to the average height of the highest gable of a pitched or hip roof.

**Building Right, Residential** - An entitlement for a single family residential lot or building site, based on the maximum density of one residential building right per quarter-quarter section owned by one party in the AG Agricultural Preservation District. To be eligible for a residential building right, the quarter-quarter section must contain a buildable area, must not contain an existing single family residential dwelling, must not be subdivided, and must not have previously used or transferred a residential building right.

**Building Rights Transfer** - The movement of a residential building right from one quarter-quarter section to another while maintaining the same overall allowable density in the same area.

**Building permit** - A permit to allow construction and inspection of a building or structure.

**Cluster development** - The grouping of single family dwellings within a specified area while maintaining the same overall allowable density in the same area.

**Commercial Wireless Telecommunications Services** - Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services.

**Comprehensive Plan** - A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development, both public and private, of the municipality and its environs, as defined in the Minnesota Municipal Planning Act, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

**Comprehensive Plan, Empire** - The document entitled *Empire Township Comprehensive Plan*, as may be updated and amended from time to time.

**Comprehensive Sewer Plan** - The plan and program of a local governmental unit for the collection, treatment and disposal of sewage which has been approved by the Metropolitan Council and adopted by the local governmental unit.

**Conditional use** - a use prescribed in a particular zoning district that is allowed with conditions.

**Conditional use permit** - A permit to allow a conditional use in a particular zoning district as approved by the Town Board.

**Convenience store** - A retail establishment, typically associated with gasoline sales, providing a limited variety of retail sales, including but not limited to groceries, beverages, automotive and household products, prepackaged meals, limited food preparation, and similar goods offered to motorists and neighborhood patrons.

**Conveyance system** - Any path, including but not limited to ditches, streams, overland flow channels, and storm sewer systems, traveled by water as it passes through the watershed.

**County** - Dakota County, Minnesota.

**County Board** - Board of Commissioners of Dakota County.

**County Comprehensive Plan** - The document entitled *The DC2030 Dakota County Comprehensive Plan*, as may be amended from time to time.

**Day care facility, state licensed** - A day care facility licensed by the State serving twelve (12) or fewer persons, and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children.

**Distribution facility** - A facility designed for the receipt, storage, and distribution of materials and products.

**Drainage System** - Any natural or artificial device for the conveyance or storage of water used to drain or store surface or underground water, including but not limited to streams, rivers, creeks, ditches, channels, conduits, gullies, ravines or washes and including structures connected therewith including culverts, drainage tile, dams and bridges and water storage basins such as lakes, ponds, natural or man-made.

**Dwelling** - A building or portion thereof designed or used exclusively for residential occupancy.

**Dwelling, non-farm** - A dwelling not used for or in connection with a farm.

**Dwelling unit** - A residential building or portion thereof intended for occupancy by a single family but not including hotels, motels, boarding or rooming houses or tourist homes. There are three principal types:

1. **Single-family detached**: A freestanding residential structure, surrounded by open space on all sides, and designed for or occupied by one (1) family only.
2. **Single-family attached**: A residential building containing two (2) or more dwelling units with one (1) or more common walls.
  - a. Duplex: A residence designed for two (2) families only, with separate living quarters and cooking facilities for each, each unit so oriented as to have all exits open to the outside.
  - b. Townhouse: A residential building containing two (2) or more dwelling units with at least one (1) more common walls, with separate living quarters and cooking facilities for each unit, each unit so oriented as to have all exits open to the outside.



- c. **Quadrplex:** A residential building containing four (4) dwelling units with one (1) or more common walls, with separate living quarters and cooking facilities for each unit, each unit so oriented as to have all exits open to the outside.
3. **Multiple-family:** A residence designed for three (3) or more families in separate units, with living quarters and cooking facilities in each unit, but sharing common hallways and building entrances.
  - a. **Apartment:** A room or suite of rooms available for rent, which is occupied as a residence by a single family, or a group of individuals living together as a single family unit.
  - b. **Condominium:** A form of individual ownership within a multiple-family building with joint responsibility for maintenance and repairs of the land or other common property.
  - c. **Cooperative:** A multi-unit development operated for and owned by its occupants. Individual occupants do not own their specific housing unit outright as a condominium, but they own shares in the enterprise.

**Educational uses** - A public or private elementary, middle, secondary, post-secondary or vocational school having a course of instruction meeting the compulsory education requirements of the State of Minnesota.

**Essential services** - Includes private and public overhead or underground gas, electrical distribution, water, cable television, telephone, transportation facilities and sewage disposal systems, including poles, wires, pipes, conduits, cables, and associated accessory equipment, that are required for the protection of the public health, safety, and general welfare, and serve the immediate area through installation within the public right-of-way or easements. This definition does not include electrical transmission lines with a nominal voltage greater than 36 kilovolts, and commercial wireless telecommunication facilities, or wind energy conversion systems.

**Excessive erosion** - Occurs when either or both of the following conditions exist: (1) estimated average annual rate of soil erosion for a particular parcel of land resulting from sheet and till erosion is greater than the soil loss tolerance for any of the soil series comprising that particular parcel of land, or (2) evidence of active gully erosion.

**Exterior storage** - The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a structure.

**Family** - An individual, or two or more persons related by blood, marriage or adoption living together, or a group of not more than five (5) persons who need not be related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit.

**Farm** - Real property used for commercial agriculture comprising 40 or more contiguous acres and which may comprise additional acreage which may or may not be contiguous to the principal 40 acres, all of which is owned and operated by a single family, family corporation, individual or corporate enterprise.

**Farm building** - All buildings other than dwellings which are incidental to the farming operation, including but not limited to barns, granaries, silos, farm implement storage buildings and milk houses.

**Farm dwelling** - A structure designed for habitation by human beings located on a farm, the occupant of which owns or is employed thereon.

**Feedlot** - A lot or building intended for the confined feeding, breeding, raising or holding of livestock and specifically designed as a confinement area in which manure may accumulate.

**Feedlot, commercial animal** - A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of more than fifty (50) animal units and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure.

**Fireplaces, outdoor wood burning** - A permanent or temporary structure located outside of a residential home that includes an area surrounded by non-combustible and non-smoke or odor-producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only and which area is depressed below ground, on the ground or on a raised bed. This definition shall not include barrels used for outside burning or outdoor wood-fired stoves or boilers.

**Floor area** - The sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space and including any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

**Forestry and nurseries** – Areas for the growth, propagation, study and maintenance of trees, shrubs, vines, perennials, biennials, grafts, cuttings, and buds whether cultivated or wild.

**Freight terminal** – A distribution facility designed to move large quantities of materials and goods via multi-modal systems such as truck and railroad freight receipt and delivery.

**Greenhouses** - Structures for the commercial indoor growing of plants and vegetables.

**Historic site** – Areas of historic, geological, or archeological interest which has been placed on the National Register of Historic Places or designated by resolution of the Township, County or State as a place of special interest.

**Home occupation** - An activity conducted solely by occupants of a dwelling, which is clearly secondary to the principal residential use on the property, and does not change the nature of the principal use. It shall have no exterior evidence of the occupation, no significant increase in traffic or demand for parking, no significant increase in levels of noise, air, water quality or other impacts.

**Horticulture** - The use of land for production for sale of fruits including apples, grapes and berries, vegetables, flowers, and nursery stock including ornamental shrubs and cultured sod.

**Individual Sewage Treatment System (ISTS) or Subsurface Sewage Treatment System (SSTS)** – A system for the collection and treatment of sanitary sewage on private property as governed and regulated by Minnesota Rules Chapters 7080-7083 and Dakota County Ordinance No. Ordinance No. 113 Subsurface Sewage Treatment Systems, as amended.

**Interim use permit** - A permit for a temporary use prescribed in a particular zoning district until a certain date established by the Town Board or until the use is no longer permitted by this Ordinance.

**Junk yard** - Any open area of any lot or parcel where waste, discarded or salvaged materials are

bought, sold, exchanged, baled or packed, disassembled, kept, stored or handled, including but not limited to scrap metals or scrap materials or the abandonment or dismantling of machinery, motor vehicles, or other vehicles, or parts thereof. It does include authorized uses established entirely within enclosed buildings. It does not include waste management facilities that are licensed by Dakota County and meet all the requirements of the Dakota County Solid Waste Ordinance.

**Kennel** – An area or facility, required by Interim Use Permit, where more than three (3) dogs over the age of six (6) months are kept.

**Land disturbing activity** – All activities that removes or buries vegetative covers, exposes soil areas and/or results in a change in surface topography including: construction activity, excavation, fill, grading, stockpiling soil, the construction of any structure, and/or any other activity that may cause or contribute to erosion or the movement of sediment.

**Livestock** - Farm animals including but not limited to cattle, horses, swine, sheep, goats, poultry, and fur bearing animals.

**Lot** - A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means that is adequate for occupancy by a use permitted in this Ordinance, abutting a public street, and of sufficient size to provide the required setbacks and area required by this Ordinance.

**Lot, corner** - A lot abutting upon two (2) intersecting streets. The greater frontage of a corner lot shall be the lot depth and the lesser frontage is the lot width.

**Lot, depth** - The mean horizontal distance between the front lot line and rear lot line.

**Lot, double frontage** - A lot which has a pair of opposite lot lines abutting two (2) substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lot lines for applying this Ordinance.

**Lot, substandard** - A lot or parcel for which a deed was established in the Dakota County property records, which does not meet the minimum street frontage requirements, lot area, structure setbacks, or other dimensional standards of this Ordinance.

**Lot, through** - A lot which contains two (2) lot lines opposite each other that abut two (2) substantially parallel streets, and which is not a corner lot.

**Lot, width** - The shortest distance between the side lot lines measured at the midpoint of the building line.

**Lot line** - A property boundary line of any lot, except any portion of the lot that extends into the abutting street or alley.

**Lot line, front** - A lot line abutting a public right of way and in case of a corner lot, it shall be both lot lines abutting a public right of way.

**Lot line, rear** - The lot line opposite and most distant from the front lot line.

**Lot line, side** - Any lot line other than a front or rear lot line.

**Lot size** - The total area within the lot lines of a lot excluding dedicated public rights of way.

**Lot of record, legal** - A parcel of land whose legal description was established in the Dakota County property records by plat, subdivision, or as otherwise permitted by law prior to the

effective date of this Ordinance and all preceding ordinances repealed by this Ordinance.

**Manufacturing** - The blending of materials or transformation of materials and substances into new products, including the assembly of components manufactured.

**Manufactured home** - A structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

**Mining extraction** - The removal of stone, sand and gravel, granite, or other material from the land for commercial, industrial, or governmental purposes.

**Minnesota Rules Chapters 7080-7083** - The statewide standards for the design, construction, and maintenance of individual sewer systems established by the Minnesota Pollution Control Agency (MPCA).

**Mixed residential development** - A development consisting of single-family detached and single-family attached dwelling units.

**MPCA** - Minnesota Pollution Control Agency.

**Park, community** - A public park situated intended to serve the public recreation needs of the entire Township.

**Park, neighborhood** - A public or private park situated in a residential neighborhood or development intended to serve the public recreation needs of the neighborhood or development.

**Park, pocket (tot lot)** - A public or private park often geared towards younger children but may include sitting areas, exercise stations, and other amenities for all ages. Such parks are often located in areas that may be removed from other neighborhood parks and offer a local recreation area within walking distance from nearby homes.

**Photovoltaic (PV) device** - A system of components that generates electricity from incident sunlight by means of the photovoltaic effect, whether or not the device is able to store the energy produced for later use.

**Photovoltaic (PV) effect** - The phenomenon that occurs when photons, the "particles" in a beam of light, knock electrons loose from the atoms they strike. When this property of light is combined with the properties of semiconductors, electrons flow in one direction across a junction, setting up a voltage. With the addition of circuitry, current will flow and electric power will be available.

**Photovoltaic (PV) module (PV Panel)** - The essentially planar assembly of solar cells and ancillary parts, such as interconnections, terminals, (and protective devices such as diodes) intended to generate direct current or alternating current in direct and diffuse sunlight.

**Photovoltaic (PV) system** - A complete set of components for converting sunlight into electricity by the photovoltaic process, including the array and balance of system components.

**Quarter-quarter section** - An approximately forty (40) acre parcel of land constituting the northeast, northwest, southwest or southeast quarter of a quarter section in the United States

Government System of rectangular land survey.

**Recreation, commercial outdoor** - A privately owned business offering outdoor recreational facilities, services, or equipment for a fee, such as private golf courses, etc.

**Recreation, public** - Publicly owned uses such as playgrounds, tennis courts, ball fields, picnic areas, trails, passive use areas, natural areas, and other similar recreational uses provided for the public at parks, playgrounds, and other sites owned and operated by a governmental unit.

**Recycling facility** - A facility designed to receive, store, sort, reclaim, package, and transfer recyclable materials for reuse and re-manufacturing.

**Religious institutions** - Churches, synagogues, temples, mosques, and similar places of worship.

**Residential Facility, State Licensed** - A state licensed residential facility or a housing with services establishment registered under chapter 144D serving six or fewer persons, except that a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use.

**Right of way** - Land acquired by reservation or dedication intended for public use, and intended to be occupied or which is occupied by a street, trail, railroad, utility lines, oil or gas pipeline, or other similar uses.

**Roadway, collector** - Roads that provide connections between neighborhoods, business areas, parks, and other roadways, as designated in the Empire Township Comprehensive Plan and the Dakota County Transportation Plan, as may be amended.

**Roadway, local** - Township roads that provide access to adjacent property and short connections to other roadways, as designated in the Empire Comprehensive Plan and the Dakota County Transportation Plan, as may be amended.

**Roadway, minor arterial** - Roadways that serve medium trips and connections to other roadways and destinations, as designated in the Empire Township Comprehensive Plan and the Dakota County Transportation Plan, as may be amended.

**Roadway, principal arterial** - Restricted or limited access roadways providing higher speed connections to other cities and states.

**Self storage facility (mini storage)** - An enclosed, secured structure containing separate units or compartments of varying sizes for indoor storage of personal belongings through rental arrangements.

**Setback** - The minimum horizontal distance between a structure, improvement, or use and a property line, right of way, ordinary high water level, roadway or other specified feature.

**Sign** - Any structure either stationary or movable, containing any writing, number, illustration, decoration, symbol, insignia, or illumination which is displayed for commercial, informational, or communicative purposes. It shall not include any official court or other public notices, nor shall it include the flag, emblem or insignia of a nation, political unit, school or religious, service or non-profit group.

**Sign, awning** - A building sign or graphic printed on or in some fashion attached directly to the awning or canopy overhanging building windows or doors.

**Sign, balloon** - A temporary sign used to draw attention to property, with or without lettering, made of lightweight material supported by helium, hot, or pressurized air, and which is greater than eighteen inches in diameter.

**Sign, changeable copy** - A sign or portion of a sign, which has a reader board for the display of text information in which letters, numbers and symbols may be changed or re-arranged manually.

**Sign, dynamic** - Any sign capable of electronic graphic display or video display messaging, except flashing signs.

**Sign, electronic graphic display** - A sign or portion thereof that displays electronic, static images, static graphics or static pictures, with or without information, defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, repixelization or dissolve modes. Electronic graphic display signs include computer programmable, microprocessor controlled electronic or digital displays.

**Sign, flashing** - A sign where light is not maintained as stationary or constant in intensity and color at all times when the sign is in use and exhibits changing light or color effect more than once in a twenty four (24) hour period by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. A flashing sign also includes any mode of lighting which resembles zooming, twinkling, or sparkling.

**Sign, freestanding** - A sign that is self-supporting and affixed to a supporting frame structure or anchored in the ground and not attached to a building. The minimum open area between the ground and bottom of the sign face for all permanent freestanding signs greater than 50 square feet in area shall be six (6) feet.

**Sign, illuminated** - Any sign which contains an element designed to emanate artificial light, internally or externally.

**Sign, incidental** - A small sign that has a directional or informational purpose for uses often secondary to the primary use of the property on which it is located, such as “service center,” “drive-up window,” “restroom,” and other similar directives.

**Sign, inflatable** - A balloon sign or other three-dimensional object, with or without lettering, logos, or symbols, supported helium, hot or pressurized air, used for advertising or to draw attention to a property.

**Sign, ground or monument** - A freestanding sign with its sign face mounted on the ground or mounted on a base attached to the ground at least as wide as the sign.

**Sign, motion** - Any sign which revolves, rotates, has any moving parts or gives the illusion of motion.

**Sign, off-premises** - A commercial speech sign that directs the attention of the public to any type of business, activity or product that is not located on the same premises where such sign is located.

**Sign, on-premises** - A commercial speech sign that directs the attention of the public to any type of business, activity or product that is located on the same premises where such sign is located.

**Sign, pennant** - A rope with small flags or triangular shapes of fabric or plastic, with or without lettering, logos, or symbols, and used for advertising or to draw attention to a property.

**Sign, portable** - Any sign which is designed to be transported, by trailer or on its own wheels, and not permanently anchored to the ground.

**Sign, projecting** - A sign in which the plane of the sign is perpendicular to the wall on which it is attached.

**Sign, public service** - A non-commercial governmental or institutional sign containing public identification information, directional information, public advisories, or similar messaging serving a public purpose.

**Sign, real estate** - A temporary sign, less than 32 square feet in area in residential zoning districts and less than 96 square feet in area in commercial and industrial zoning districts, which announces the sale, rental, or lease of property by the owner or real estate company.

**Sign, subdivision** - A permanent sign designed to identify a residential or commercial subdivision.

**Sign, temporary** - A sign which is not permanently affixed or installed, and is intended to be displayed for a limited period only.

**Sign, video display** - A sign that changes its message or background in a manner or method of display characterized by non-interrupted, constant motion or pictorial imagery, which may or may not include text and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames which give the illusion of motion, including but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes.

**Sign, wall** - A single faced sign attached to or erected against an exterior wall of a building with the face in a parallel plane to the plane of the building wall and which does not project more than eighteen (18) inches.

**Sign area** - A measurement including the outermost dimensions of the sign frame containing the sign face.

**Sign band** - An area on an exterior wall of a building that is intended to be the common location of permitted wall signs for multiple messaging or multiple building tenant signs.

**Sign face** - The surface of the sign upon which the message of the sign is exhibited.

**Sign height** - The height of the sign shall be computed as the vertical distance measured from the base of the sign at average property grade within 30 feet of the sign to the top of the highest attached component of the sign.

**Sign structure** - The base, poles, uprights, bracing, and framework which supports the sign face.

**Site plan** - A development plan for property shows the existing and proposed conditions of the property, including topography, vegetation, wetlands, open spaces, means of ingress/egress, parking, grading, landscaping, drainage, utilities, structures, building elevations and other information which may reasonably be required by the Township.

**Solar energy** - Electromagnetic energy transmitted from the sun (solar radiation).

**Solar electric system** - A set of devices whose primary purpose is to collect solar energy and convert (and possibly store) it into electric power by means of any combination of collecting, transferring, or converting solar-generated energy.

**Solar electric system, Retail** - A solar electric system established for the primary purpose of meeting all or part of the electric energy needs of the host building, whether residential, commercial, industrial, or institutional.

**Solar electric system, Wholesale** - A solar electric system established for the primary purpose of generating electricity and selling it directly to a third party (e.g., electric utility company).

**Solar panel** - See Photovoltaic (PV) module.

**Speech, commercial** - Speech or messaging advertising a business, profession, commodity, service or entertainment.

**Speech, non-commercial** - Dissemination of messages not classified as commercial speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

**State** - State of Minnesota.

**State licensed residential facility or housing with services establishment** - Any facility required to be licensed by the Minnesota Department of Human Services, public or private, which for gain or otherwise regularly provides one or more persons with a twenty-four (24) hour per day substitute care, food, lodging, training, education, supervision, habilitation, rehabilitation and treatment they need, but which for any reason cannot be furnished in the person's own home. Residential facilities include, but are not limited to, state institutions under the control of the Commissioner of Human Services, foster homes, residential treatment centers, maternity shelters, group homes, residential programs, supportive living residences for functionally impaired adults or schools for handicapped children.

**Structural alteration** - Any change, other than incidental repairs, which would prolong the life of the supporting members of a building such as bearing walls, column, beams, girders or foundations.

**Structure** - Anything constructed, the use of which requires more or less permanent location on the ground; or attached to something having a permanent location on the ground.

**Structure, accessory** - A building or other structure subordinate to the principal structure or use of the property and located on the same lot as the principal building or use including but not limited to garages, sheds, storage buildings and other similar structures.

**Structure, agricultural** - Non-residential structures specifically designed and utilized for agricultural purposes. Such structures shall include, but not be limited to pole barns, grain storage structures, storage structures for agricultural equipment, animal shelters, and irrigation systems.

**Substandard Lot** - A lot or parcel of land which does not meet the minimum lot area, length of water frontage, structure setbacks or other dimensional standards of this Ordinance.

**Tank farm** - A principal use of property involving three or more above ground storage tanks for the bulk storage of liquids, gases, and dry materials.



**Township** – Empire Township, a Minnesota municipal corporation organized under the laws of the State of Minnesota.

**Use, accessory** - A subordinate use or structure which is secondary and associated with the principal use and is located on the same lot as the principal building or use. Except for agricultural accessory uses in the AG Agricultural Preservation District, an accessory use is not permitted without a principal use.

**Use, conditional** - A use prescribed in a particular zoning district only upon showing that such use in a specified location will comply with all standards of this Ordinance for the location or operation of such use. The Township may impose additional conditions in specific instances to protect the public health, safety or welfare.

**Use, interim** - A temporary use prescribed in a particular zoning district until a certain date established by the Town Board or until the use is no longer permitted by this Ordinance.

**Use, non-conforming** - A use of land, building or structure lawfully existing at the time of this Ordinance or prior ordinances repealed by this Ordinance which does not comply with all the regulations of this Ordinance.

**Use, permitted** - A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards of such district.

**Use, principal or principal structure** - The purpose or activity for which the land, structure or building thereon is designed, arranged or intended or for which it is occupied or maintained.

**Uses, agricultural** - The production of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, bees and honey, excluding commercial feedlots.

**Uses, commercial** - Any use of land and incidental structures used for the display and sale of goods and services.

**Uses, industrial** - All manufacturing, compounding, processing, packaging, treatment or assembly of products and materials, and the storage of equipment and materials.

**Uses, institutional** – Uses that are under public or semi-public ownership and provide a benefit or service to the public, including but not limited to educational facilities, religious facilities, cemeteries, government buildings and facilities, and non-profit organization facilities.

**Variance** - A modification or variation of the provisions of this Ordinance where it is determined that by reason of special and unusual circumstances relating to a specific lot, that strict application of the ordinance would cause practical difficulties in the use property, or that strict conformity with the provisions of this Ordinance would not allow the property to be used in a reasonable manner.

**Waste management facility** - An area or facility designed to store, treat, transfer, or dispose of solid or hazardous waste, excluding recycling facilities.

**Water level, ordinary high (OHWL)** - The boundary of public waters at an elevation delineating the highest water level as defined by the Minnesota Department of Natural Resources which has been maintained for a sufficient period of time to leave evidence upon the landscape; commonly that point where the vegetation changes from predominantly aquatic to predominately

terrestrial. For tributary rivers, the ordinary high water level is the elevation of the top of the bank of the channel.

**Watershed Organization** - The Vermillion River Watershed Joint Powers Organization.

**Wetland Conservation Act** - An Act adopted by the State of Minnesota, as amended from time to time defining, classifying, and governing wetlands within the State of Minnesota.

**Wind Energy Conversion Systems (WECS)** - An apparatus capable of converting wind energy into electricity, such as windmills or wind turbines.

**Wireless telecommunication facilities** - Licensed wireless services used for commercial purposes including cellular, personal communication telecommunication services, specialized mobilized radio, enhanced specialized mobilized radio, paging, and similar services.

**Wireless telecommunication tower** - A free-standing, self-supporting lattice, guyed, or monopole structure constructed from grade intended to support antennas, except towers used for amateur radio operations.

**Yard** - A required open space on a lot which is unoccupied and unobstructed by a building from its lowest ground level to the sky, except as permitted in this Ordinance. A yard shall extend along a lot line and at right angles to the lot line to a depth or width specified in the yard regulation for the zoning district in which the lot is located.

**Yard, front** - The area located between the full width of the front lot line and the front setback line for the zoning district in which the lot is located.

**Yard, rear** - The area located between the full width of the rear lot line and the rear setback line for the zoning district in which the lot is located.

**Yard, side** - The area extending along the side lot line between the front and rear yards, having a width as specified for the zoning district in which the lot is located.

**Zoning Administrator** - The Empire Township Clerk or authorized representative.

**Zoning amendment** - A change authorized by the Town Board either in the text of this Ordinance or in the boundaries of a zoning district.

**Zoning district** - An area or areas within Empire Township for which the regulations and requirements governing use, lot and size of building and premises are uniform.

**Zoning map** - The map or maps incorporated into this Ordinance as a part thereof designating the zoning districts.

## SECTION 4 GENERAL PROVISIONS

### 4.01 Authority and Scope

- A. This Ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Sections 462.352 to 462.365, as may be amended. The provisions of this Ordinance shall be interpreted and applied in accordance with and as permitted by the State of Minnesota. This Ordinance shall apply to all property within Empire Township, hereafter the “Township.”
- B. Any building, structure or use lawfully existing on the effective date of this Ordinance, which is not in conformity with this Ordinance, shall be regarded as nonconforming and may be continued subject to the requirements contained in this Ordinance.
- C. This Ordinance shall not repeal, annul, or in any way impair or interfere with the provisions of other ordinances or regulations of the Township except as expressly provided within this Ordinance.
- D. Pursuant to the authority granted by Minnesota Statutes, Section 462.3593, Empire Township opts out of the requirements of Minnesota Statutes, Section 462.3593, which defines and regulates Temporary Family Health Care Dwellings.

### 4.02 Interpretation

- A. In their interpretation and application, the provisions of this Ordinance shall be the minimum requirements for the promotion of the public health, safety and welfare, and to accomplish the purposes of this Ordinance.
- B. Except as provided within this Ordinance, the provisions of this Ordinance are cumulative and in addition to the provisions of other laws and ordinances governing the same subjects.
  - 1. Where the provisions of this Ordinance impose greater restrictions than those of any law, other ordinance or regulation, the provisions of this Ordinance shall control.
  - 2. Where the provisions of any law, or other ordinance or regulation impose greater restrictions than this Ordinance, the greater restrictions shall be controlling.
- C. Words or terms defined in this ordinance shall have the meanings assigned to them unless such meaning is clearly contrary to the intent of this Ordinance.
- D. The singular number shall include the plural.
- E. The present tense shall include the past and future tenses.
- F. The word “shall” is mandatory and “may” is permissive.

### 4.03 Compatibility with Comprehensive Plan

The Township has adopted the *Empire Township 2030 Comprehensive Plan*, which may be amended from time to time. The *Empire Township 2030 Comprehensive Plan* establishes the goals and policies for land uses in the Township and describes the need for implementation of the comprehensive plan through official controls, including this Ordinance. The provisions of this Ordinance shall be consistent and compatible with the *Empire Township 2030 Comprehensive Plan*.

#### **4.04 Deadline for Actions**

It is the intent of the Township to comply with State requirements for timely review and actions requiring approval by the Township. Information submissions and applications must be determined by the Township to be complete before a timeline for action is initiated. The review for completeness will be conducted by the Township within fifteen (15) business days of receipt of an application. If the application is determined to be incomplete, the Township will identify the specific requirements for completeness. In the event the Township cannot act upon a completed application within a timeframe of 60 days, the Township will notify an applicant in writing that action will be completed within 120 days of the date the application was accepted by the Township. In the event that multiple approvals are involved in any action, such as a permit application requiring a variance or a Zoning Ordinance amendment requiring a Comprehensive Plan amendment, each action shall require a separate, independent timeline for action. A zoning action requiring a state-mandated or petitioned environmental review shall require completion of the environmental review prior to commencing the zoning action. An applicant may also extend the deadline for action by submitting written notice to the Township.

#### **4.05 Building Code Adoption**

- A. The Minnesota State Building Code, as adopted by the Commissioner of Administration pursuant to Minnesota Statutes 316B.101 to 316B.194, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Administration, through the Building Codes and Standards division is hereby adopted by reference with the exception of the option chapters, unless specifically adopted in the ordinance. The Minnesota State Building Code is hereby incorporated in the ordinance as if fully set out herein.
- B. The application, administration, and enforcement of the code shall be in accordance with Minnesota State Building Code. The code enforcement agency of this jurisdiction is called the Building Official. This code shall be enforced by the Minnesota Certified Building Official designated by this jurisdiction to administer the code (Minnesota Statutes 326B.133, subdivision 1).
- C. The issuance of permits and the collection of fees shall be as authorized in Minnesota Statutes 326B.121, subdivision 1. Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the jurisdiction. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with Minnesota Statutes 326B.148.
- D. A violation of the code is a misdemeanor.
- E. The Minnesota State Building Code, established pursuant to Minnesota Statutes 316B.101 to 316B.194 allows the jurisdiction to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code. The Township has not elected to adopt any optional chapters of the code.

#### **4.06 Building Permits**

All architects, contractors, subcontractors, builders and other persons responsible for the erecting, altering, changing, or remodeling of any building or structure must consult with the Township Building Official before beginning or undertaking such work to determine what permits may be required, including but not limited to building permits, plumbing permits, electrical permits, and mechanical permits.

- A. No work shall be completed on any building or structure requiring a permit until such permit has been issued.
- B. The Building Official shall inform the applicant for any required permit, what plans, details, and specifications are required in order to issue a permit.
- C. All building permit applications are to be examined and processed by the Building Official in the timeframe prescribed by State law.
- D. If the proposed work does not conflict with any portion of this Ordinance, the permit shall be granted after the appropriate fee is paid to the Building Official. If the building permit is not issued, the reason(s) for denial shall be made known to the applicant.
- E. Building permits are valid for one year from date of issue. In the event that construction is not completed by the expiration date of the building permit, construction shall not continue until a new permit is issued, or a determination has been made by the Building Official that reasonable progress has been made in completing the construction.

#### **4.07 Site Plan Review**

A site plan review and approval by the Planning Commission is required for all building permit applications, except for single family dwellings and agricultural permitted uses. Applications for site plan review shall include the following minimum submittal requirements:

- A. Legal description and ownership of the property.
- B. A narrative description of the proposed property uses.
- C. Scaled drawings of the property including property dimensions, the locations of all existing easements, the locations and setbacks of all existing buildings, and the locations and setbacks of all other structures and uses, such as driveways, parking areas, private sewage systems, and private wells.
- D. Scaled drawings of the proposed uses, easements, and buildings including all dimensions and property setbacks.
- E. Legal descriptions of proposed easements.
- F. Scaled drawings of building elevations and descriptions of exterior building materials.
- G. Scaled locations and descriptions of any proposed fencing, screening, landscaping, or site lighting.
- H. A site grading plan with existing and proposed topography, including erosion and sedimentation control plans and stormwater management plans.
- I. Scaled delineations of any wetlands or floodplain areas.

- J. Identification of any wetland or floodplain encroachments and detailed mitigation plans.
- K. The Township may request additional information necessary to process the building permit application. The Township may also waive information not deemed necessary to process the building permit application.
- L. The applicant shall furnish the Township with ten (10) sets of plans for review and referral.

#### **4.08 Street Access Required**

All permitted buildings and structures shall be located on property with direct access to a public road, unless as otherwise specifically permitted in this Ordinance. Driveway or right-of-way access permits are required by the Township, Dakota County, or State of Minnesota, depending on the jurisdictional ownership of the roadway. Access locations shall be consistent with the access spacing guidelines of the roadway jurisdiction.

#### **4.09 Relocated Structures**

No existing building or structure shall be moved or relocated within or into the Township without approval by the Township and without a permit. Upon consideration of the findings and recommendations by the Building Official, the Planning Commission shall not approve the relocation of any building or structure without certifying the following:

- A. The building or structure is compatible in appearance and character with other buildings and structures on the same property.
- B. The building or structure is compatible in appearance and character with other buildings and structures on surrounding properties.
- C. The building or structure can meet all current building code requirements.
- D. The placement of the building or structure is consistent with all other requirements of this Ordinance.

#### **4.10 Single Family Dwellings**

- A. All single family dwellings shall meet the following standards:
  - 1. Minimum structure width and depth of 24 feet.
  - 2. Minimum 4/12 pitch roof.
  - 3. Permanent frost-free footings.
- B. The use and occupancy of a tent, recreational vehicle, unfinished dwelling, or other temporary dwelling for the purpose of living quarters or residency is prohibited.

#### **4.11 Home Occupations**

- A. Home occupations shall be conducted solely by persons residing in the residence.
- B. All business activity shall take place within authorized structures and shall be clearly incidental to the principal residential use of the property.
- C. There shall be no alteration to the exterior of the residential dwelling, accessory building or yard that in any way alters the residential character of the premises.

- D. No sign, display, or device identifying the occupation shall be used, except a nameplate, not exceeding 1.5 square feet, attached near the building entrance.
- E. The occupation shall not be visible or audible from any property line.
- F. The occupation shall not involve the retail sale or rental of space or products on the premises, except for the sale of goods custom made or repaired by the occupant on the premises and incidental products associated with service businesses.
- G. Unless completely enclosed within an approved structure, no vehicle used in the conduct of the occupation shall be parked or stored at the premises other than such as is customarily used for domestic or household purposes.
- H. Only on-site off-street parking facilities typically associated with the residence shall be used.
- I. The conduct of an occupation or the use of substances which may be hazardous to or in any way jeopardize the health, safety or welfare of neighbors and neighboring property shall not be permitted.

#### **4.12 Residential Accessory Structures**

- A. Detached accessory structures are permitted on residential properties in the MXR District, subject to the following standards and restrictions:
  - 1. Accessory buildings within single family attached and duplex residential properties shall be reviewed according to the process utilized for consideration of a preliminary plat, PUD, or site plan review.
  - 2. Accessory buildings within single family detached properties are permitted uses requiring building permits. A maximum of two (2) accessory buildings, unattached to the principal structure, may be permitted per residential lot, and only one may exceed 200 square feet, which shall comply with the following standards:
    - a. The setbacks for the structure shall meet the same setbacks for the principal structure.
    - b. The side walls of the structure shall not exceed 11 feet in height, measured from finished floor to top of shingle at exterior wall.
    - c. The total gross square footage of an accessory building shall not exceed 800 square feet, except that the aggregate total square footage of all accessory buildings (including all sheds and similar storage buildings not exceeding 200 square feet) on a single lot shall not exceed 800 square feet.
    - d. The pitch of the roof and the dimensions of the overhang of the structure shall match or be substantially compatible with the principal structure on the property.
    - e. The exterior materials of the structure shall match or be substantially compatible with the principal structure on the property.
    - f. The determination of the compatibility of the accessory building with the principal structure shall be at the discretion of the Planning Commission.
- B. Detached accessory structures for non-farm, residential properties (non-agricultural parcel) in the AG District shall be limited to a square footage that is no more than three times the building footprint of the principal structure.

#### 4.13 Residential Fencing

Fences are permitted on all residential properties, subject to the following regulations:

- A. General. No fence may be erected which creates visual obstructions at any intersection, alley, driveway or street for safe vehicular, bicycle or pedestrian movement. Only decorative fences or chain link fences may be constructed in the required residential front yard, except as provided in this section. Electric fences may not be used and such material as hog wire fencing and barbed wire fencing will not be allowed, except in the AG District. Snow-stop fencing, used between November 1 and April 1, construction fencing, and other similar temporary fencing are permitted.
- B. Maintenance. All fences shall be constructed and maintained in a substantial, workmanlike manner and of material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be constructed so that the side containing the framing supports and cross pieces face the interior of the fence owner's lot. Any fence which does not comply with the provisions of this Section or which endangers the public safety, health or welfare shall be considered a public nuisance.
- C. Permits. There are no permits required for residential fences. Any questions regarding fencing regulations may be directed to the Township Clerk-Treasurer or Planning Commission for interpretation.
- D. Location. Residential fences may be placed on the property line, except fences located in the front yard (that area between the principal structure front yard setback line and any public right-of-way) must be decorative or chain link fences and may not exceed three (3) feet in height. No fence may create a visual obstruction at any intersection.
- E. Easements. Fences may be located within platted or recorded yard area public easements, provided fencing does not alter grades or impede drainage flow and the easement areas do not contain or are not specifically planned to contain public drainage facilities, trails, sidewalks, wetlands, or surface waters. Any fence placed in a public easement shall be removed and replaced at the owner's expense in the event the easement owner performs any authorized work in the prescribed easement.
- F. Height. The maximum height of any residential fence shall be six (6) feet, except when a residential property line abuts a commercial or industrial use the fence may be eight (8) feet in height along that property line. The maximum height of a decorative fence in the front yard of a lot where driveway access is located shall be three (3) feet. The maximum height of a decorative fence in the front yard of a corner lot where driveway access is not located shall be six (6) feet; provided, that the six (6) height does not extend into the front yard area of the lot where driveway access is located.
- G. Decorative Fences. Decorative fences shall be either a vertical picket-type or horizontal rail-type. Picket board widths shall not exceed four (4) inches and the minimum spacing between picket boards shall not be less than two (2) inches. Rail-type fences shall be either 2-rail or 3-rail and shall include a minimum of four-inch spacing between rails. The Planning Commission may modify specific dimensional standards for pre-manufactured decorative fencing, provided the modifications are consistent with the intent of this Ordinance and the modifications do not result in standards that others with similar situations, site conditions, and circumstances would not be granted.



H. Subdivision Development Fencing. Fencing that is approved as a part of a subdivision development may be exempt from some of the dimensional requirements of this section, subject to recommendation of the Planning Commission and approval by the Town Board.

#### **4.14 Nonconforming Uses and Structures**

- A. A nonconforming use or structure existing at the time of the adoption of this Ordinance, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless (1) the nonconforming use is discontinued for a period of more than one year; or (2) unless the nonconforming use or structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated 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 property is damaged.
- B. The Township may consider the temporary expansion of a nonconforming use through the Interim Use Permit process, provided reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety are included within the permit and a date to eliminate the use or eliminate all nonconformities is included in the permit.

#### **4.15 Height Exceptions**

Height regulations set forth in other sections of this Ordinance may be increased for certain accessory uses as follows:

- A. Chimneys, flagpoles, church towers, radio antennae, and television antennae: 50 percent in excess of the maximum height allowed in the Zoning District.
- B. Power poles: one hundred ten (110) feet.
- C. Wireless telecommunication towers and wind energy conversion systems: less than two hundred (200) feet.
- D. Public emergency 800 MHz radio tower: not exceeding 325 feet.

#### **4.16 Structure Setback Provisions**

- A. Principal and accessory structure setback dimensions are measured from property lines to the outer edge of the structure footing or foundation. In the absence of permanent footings or foundations, the setback shall be measured from the outer wall of a building or closest part of a structure to the property line. Unless otherwise specified in this Ordinance all structures shall meet the setback requirements established for principal structures. No structure with permanent footings or foundations, including any overhangs or fixed protrusions, shall be located within any public easement area.
- B. The yard area abutting public right-of-way shall be considered the front yard. Corner lots shall have front yards abutting both public rights-of-way.
- C. On corner lots, both yard areas opposite the public rights-of-way shall be considered side yards.
- D. In any instance where a lot abuts parallel public rights-of-way, the front yard shall be the area abutting the public right-of-way where access is gained. The opposite yard area shall be considered the rear yard.
- E. The following are exceptions to structure setback requirements:

1. Roof overhangs, cornices, eaves, awnings, and similar structural or architectural components, provided the encroachment is three (3) feet or less.
2. Door steps, landings, unenclosed porches, and similar features, provided the encroachment is five (5) feet or less and any porch or landing is no greater than forty (40) square feet in area.
3. Cantilevered windows, greenhouses, or other enclosures, provided the encroachment is three (3) feet or less.
4. Uncovered and unenclosed ground level decks or patios, provided the encroachment is no more than one-half (1/2) the principal structure side yard and rear yard setback and no more than one-third (1/3) the principal structure front yard setback.
5. Rear yard, uncovered and unenclosed decks, supported by post footings and unenclosed around the post footings or below the deck, provided the encroachment is ten (10) feet or less. On corner lots with two (2) front yards and two (2) side yards, a similar encroachment is allowed on the rear of the principal structure or attached to the wall opposite from the side of the principal structure where driveway access is gained.
6. Accessory structures less than 120 square feet may be located five (5) feet from side and rear property lines, but not within public easements.

#### **4.17 Public Nuisance**

No noise, odors, vibrations, smoke, air pollution, liquid or solid wastes, heat glare, dust or other such adverse influences shall be permitted in any district that will in any way have an objectionable effect upon adjacent or nearby property or be inconsistent with standards established by the Minnesota Pollution Control Agency. All personal and business activities shall be conducted in a manner that is not dangerous, threatening or a nuisance to public health, safety, and welfare. Normal farm practices shall not be considered a public nuisance, except as provided in subsection A. below.

A. The following are declared to be nuisances affecting public health:

1. The effluence from any cesspool, septic tank, drain field, sewage disposal system, or animal waste containment facility, discharging upon the surface of the ground, or dumping the contents thereof at any place, except as authorized.
2. The pollution of any public well or cistern, stream or lake, canal or body of water, by sewage, industrial waste or other substance.
3. Property or buildings kept or activities conducted in a manner that poses a fire hazard.
4. Buildings for farm animals or animal feedlots shall not be located closer than 100 feet from any property containing a residential dwelling.
5. Carcasses of animals not buried or destroyed, or otherwise disposed of within 24 hours after death.

B. The following are declared to be nuisances affecting public peace and safety:

1. The placing or throwing on any street, alley, road, highway, sidewalk, or other public property of any glass, tacks, nails, bottles or other nuisance which may injure any person or animal, or damage any pneumatic tire when passing over the same.

2. The ownership, possession or control of any unused refrigerator or other container, with doors which fasten automatically when closed, of sufficient size to retain any person to be exposed and accessible to the public, without removing the doors, lids, hinges or latches, or providing locks to prevent access by the public.
  3. The outdoor keeping of non-farm animals which make habitual or excessive barking, howling, crying, whining, baying, or other detectable sounds which disturb the peace and quiet of adjacent or nearby properties. Habitual or excessive animal noises are those which occur repeatedly for a period of five minutes or more with a time lapse of 30 seconds or less of no sounds or are those intermittent sounds lasting for a period of 30 minutes or more.
  4. Any distinctly and loudly audible noise, except noise generated from normal farm practices, that unreasonably annoys, disturbs, or endangers the comfort, peace, or welfare of any person, or precludes their enjoyment of property.
- C. The following are declared to be miscellaneous nuisances:
1. It shall be unlawful for any person to store or keep any vehicle of a type requiring a license to operate on a public highway, but without a current license, whether such vehicle be dismantled or not, outside of an enclosed building in residential districts.
  2. It shall be unlawful to create or maintain a junkyard, vehicle dismantling yard, or scrap yard, except as specifically provided in this Ordinance.
  3. It shall be unlawful to create a nuisance affecting the health, peace or safety of any person.
  4. Vacant lots shall be kept clean of debris and shall not be used for unauthorized storage or kept in an unsightly condition.
  5. It shall be unlawful in the MXR Mixed Residential District to operate gas-operated all-terrain vehicles, amphibious vehicles, off-road four-wheel drive vehicles, dune buggies, motor bikes, motor scooters, motor cycles, mopeds, go-karts and similar self-propelled off-road or on-road wheeled vehicles on public property at any time or on private property for more than one hour per day. No more than three vehicles shall be operated on the same property at the same time. The lawful hours of operation for said vehicles shall be from 12:00 p.m. to 7:00 p.m. The operation of said vehicles shall require operable stock mufflers and said vehicles shall be operated consistent with Minnesota State noise standards. No property shall include construction of a track for the operation of said vehicles and the operation of said vehicles shall not result in the visible loss of natural vegetation, or paths, or ruts on any property. It shall be unlawful in the MXR Mixed Residential District (whether on public or private property) to operate dirt bikes at any time. This subsection shall not regulate the operation of any properly licensed vehicles on public roadways or the use of self-propelled children's vehicles, provided said vehicles do not exceed ten miles per hour, nor shall this subsection affect the use of any self-propelled vehicle, wheel chair or equipment used by persons with disabilities.

#### **4.18 Peddling Registration**

Unsolicited door-to-door merchandise sales or product peddling is prohibited in Empire Township without prior registration with the Township Clerk. Registration requires completion

of a Township application and signature by the Clerk. A cash annual registration fee of \$75.00 is required at the time of application. Applicants must present company information, business liability insurance, product information, vehicle information, and a valid driver's license. The registration form, signed by the Township Clerk, must be carried by the applicant at all times within the Township. Door-to-door sales are restricted to the hours of 9:00 a.m. to 6:00 p.m. Monday through Saturday. Failure to register such business is a violation of this Ordinance and subject to all penalties under the law. Failure to leave private property immediately upon request by a property owner or resident of the Township is also a violation of this Ordinance and subject to all penalties under the law. No sales or displays of products for sale are allowed on any public property or public right-of-way.

Non-profit organization sales and volunteer organization fundraising events, such as Girl Scout cookie sales, school organization sales, athletic associations sales, and similar sales, raffles and fundraising efforts are exempt from the registration and fees required in this Section.

#### **4.19 Garage Sales**

Individual or group neighborhood garage sales are limited to two events on the same property each year. An event is defined as no more than 12 consecutive days. Garage sale signs shall be temporary during the event and promptly removed after the event.

#### **4.20 Customary Accessory Uses**

- A. Customary residential accessory uses include personal use garages, driveways, parking areas, personal use sheds and storage buildings, decks, patios, fire pits, gazebos, swimming pools, TV antennae, roof top retail electric solar systems, and personal recreational uses and structures. Similar accessory uses not listed here shall be determined by the Zoning Administrator.
- B. Customary commercial or industrial accessory uses include driveways, parking and maneuvering areas, trash enclosures, site lighting, signage, and retail solar electric systems. Similar accessory uses not listed here shall be determined by the Zoning Administrator.

## **SECTION 5 ZONING DISTRICTS/USE REGULATIONS**

### **5.01 Establishment of Zoning Districts**

For the purposes of this Ordinance, Empire Township is hereby divided into the following zoning districts:

AG	Agricultural Preservation District
MXR	Mixed Residential District
NC	Neighborhood Commercial District
HC	Highway Commercial District
LI	Light Industrial District
ME	Mineral Extraction District
FO	Floodplain Overlay District
SO	Shoreland Overlay District

**5.02 Zoning Map**

The locations and boundaries of the districts established by this Ordinance are set forth on the Empire Township Zoning Map, which is made part of this Ordinance.

**5.03 Interpretation of the Zoning Map**

Where due to the scale, lack of detail or illegibility of the Zoning Map attached hereto, there is an uncertainty, contradiction or conflict as to the intended location of any zoning district boundary as shown thereon, the Zoning Administrator shall make an interpretation of the map upon request of any person. Any person aggrieved by any such interpretation may appeal such interpretation to the Board of Adjustments and Appeals. The Board of Adjustments and Appeals, in interpreting the Zoning Map or deciding any appeal, shall apply the following standards:

- A. Zoning district boundary lines are intended to follow lot lines, or be parallel or perpendicular thereto, or along the centerlines of streets, rights-of-way or watercourses, unless such boundary lines are fixed by dimensions shown on the Zoning Map.
- B. Where zoning district boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines.
- C. Where a zoning district boundary line divides a lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on the zoning map or rezoning description, shall be determined by the use of the map scale shown thereon.
- D. Overlay district boundaries follow water bodies and watercourses in a parallel fashion or may be established according to a base elevation.
- E. If, after the application of the foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary line, the boundary line shall be determined in a reasonable manner, considering the history of uses of the property and the history of Zoning Ordinances and amendments in the Township as well as other relevant facts.

#### **5.04 Uses Not Allowed**

Uses which are not specifically identified within the Empire Township zoning districts as permitted uses, accessory uses, conditional uses, or interim uses shall be prohibited.

#### **5.05 AG – Agricultural Preservation District**

##### **A. Intent**

In addition to the general purposes stated in Section 2, the intent of the AG district is to continue agriculture as the primary use of the land.

##### **B. Permitted Uses**

1. Agriculture and accessory agricultural uses.
2. Agricultural Preserves.
3. Stands for the sale of agricultural products raised on the premises.
4. Single family residential dwellings at a density not exceeding one (1) home per quarter-quarter section.
5. Contiguous quarter-quarter section single family residential clustering, subject to the standards in subsection E. below.
6. Non-contiguous quarter-quarter section single family residential clustering, subject to the requirements of Section 6.19 Residential Building Rights Transfer.
7. Customary residential accessory uses and structures.
8. Home occupations.
9. A state licensed residential facility or a housing with services establishment registered to serve six (6) or fewer persons, except those as provided for under Minnesota Statute 462.357, subdivision 7.
10. A state licensed day care facility serving twelve (12) or fewer persons or a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children.
11. Wildlife Management Areas and Aquatic Management Areas.
12. Township governmental facilities and structures.
13. Essential services.

##### **C. Conditional Uses**

1. Agricultural service establishments.
2. County and state administrative and highway service facilities and structures.
3. Publicly-owned wastewater treatment facilities.
4. Public recreation facilities.
5. Religious institutions, pre-schools, and elementary schools.

6. Banquet facilities (licensed third party catering only) on properties previously permitted for commercial uses and located adjacent to minor arterial highways as identified in the Empire Township Comprehensive Plan.
7. Grounds management equipment research and testing.
8. Historic sites.

D. Interim Uses

1. Golf courses.
2. Mineral extraction, subject to the requirements of Ordinance No. 450.
3. Wireless telecommunication services, subject to the requirements of Section 6.17 of this Ordinance.
4. Wind energy conversion systems, subject to the requirements of Section 6.18 of this Ordinance.
5. Dog training, and dog kennels subject to the requirements of Section 6.14 of this Ordinance.
6. Temporary residential dwellings for farm employees.
7. Seasonal storage of recreational vehicles and equipment in agricultural accessory structures built prior to January 1, 2000.
8. Road construction businesses located within the Mineral Extraction Overlay area, as designated in the Empire Township Comprehensive Plan, and lying north of 170th Street.
9. Yard waste composting; source-separated organic waste composting; municipal solid waste (MSW) sorting, conducted in association with yard waste and organic waste composting; and MSW transfer, conducted in association with MSW sorting, yard waste composting and organic waste composting; provided the above activities are located exclusively on public property located east of Blaine Avenue and north of 170<sup>th</sup> Street, subject to compliance with all other provisions of this Ordinance.
10. Soil testing, water sampling, site grading not exceeding 20 acres, topsoil separation, sand screening, berming, and reclamation of property located in the Empire Township Comprehensive Plan Mineral Extraction Overlay area, prior to issuance of a mineral extraction permit.

E. Special Requirements

1. All uses shall be subject to the district dimensional standards identified in subsection F.
2. All residential lots must contain a buildable area as defined in this Ordinance.
3. Contiguous quarter-quarter section single family residential clustering is subject to the following requirements:
  - a. The quarter-quarter section from which a residential building right is to be transferred from must contain an eligible residential building right.
  - b. The quarter-quarter section from which a residential building right is to be transferred from must become encumbered with a recorded conservation easement or other

acceptable deed restriction that indicates the eligible residential building right has been used.

- c. The quarter-quarter section into which a residential building right is to be transferred must contain a buildable area, must have public road access or other Township approved access, and must be used on a parcel meeting all other dimensional standards and performance standards required in this Ordinance.
- d. Clustering is permitted on contiguous quarter-quarter sections owned by different parties, provided the requirements of this subsection are met.

F. AG District Dimensional Standards

- 1. Minimum Lot Area: 2.0 acres
  - Single Family Residence 2.0 acres
  - CUP Uses 5.0 acres
- 2. Minimum Lot width: 220 feet
- 3. Minimum Lot depth: 220 feet
- 4. Front yard/street structure setback:
  - State Highway 130 feet from centerline
  - County Highway 110 feet from centerline
  - Township Road 80 feet from centerline
- 5. Side yard structure setbacks: 10 feet
- 6. Rear yard structure setbacks: 30 feet
- 7. Maximum structure height: 35 feet
  - Agricultural uses 120 feet
  - Electric utility poles 110 feet
  - Telecommunication towers <200 feet
  - Wind Energy Conversion Systems <200 feet
  - Business & institutional uses 50 feet
  - Residential uses 35 feet
- 8. Maximum lot coverage: 25%
- 9. One driveway is permitted for each non-farm residential parcel. Driveways shall be setback a minimum of 50 feet from a side yard property line on Township roads, unless a shared driveway on a common lot line with another residence has been approved by the Township. Driveway separation from intersections and existing driveways on County or State Highways are intended to be a minimum of 300 feet, but are determined by the affected jurisdiction. Driveway permits are required by the affected jurisdiction on all roads. Driveways shall be a minimum of 12 feet in width and a maximum of 24 feet in



width at the right of way line. Culverts are required for all driveways and the specific standards are determined by the affected jurisdiction.

## **5.06 MXR – Mixed Residential District**

### **A. Purpose and Scope**

In addition to the general purposes stated in Section 2, the MXR District is intended to allow a density of three dwelling units per acre (3 DUA) and a mix of single-family detached and single family attached residential dwellings, where public utilities are available. Total density is calculated by multiplying net site acres, excluding existing roadways, wetlands, surface waters and floodplain areas, by three. The mix of detached and attached housing units is intended to reflect a minimum sixty percent (60%) detached dwelling to a maximum forty percent (40%) attached dwelling ratio in any given residential subdivision. Lot areas, development densities, and ratios of housing types may be modified through Planned Unit Development procedures.

### **B. Permitted Uses**

1. Single-family detached and attached dwellings.
2. Customary residential accessory uses and structures.
3. Parks.
4. A state licensed residential facility or a housing with services establishment registered to serve six (6) or fewer persons, except those as provided for under Minnesota Statute 462.357, subdivision 7.
5. A state licensed day care facility serving twelve (12) or fewer persons or a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children.
6. Essential services.

### **C. Conditional Uses**

1. Churches
2. Schools
3. Open space design subdivisions

### **D. Interim Uses**

1. Expansion of legal nonconforming accessory structures on parcels greater than one (1) acre in size, not to exceed twenty-five percent (25%) of the existing structure.
2. Display and sale of automobiles subject to the following conditions:
  - a. The property must be the site of a legal nonconforming commercial or industrial use in the MXR district.
  - b. The property must front on Highway 3.
  - c. All vehicles stored on the premises shall be insured and operable.

- d. All vehicles shall be located on hard surfaces at all times. No additional hard surface may be added to the site.
- e. No outdoor public-address system shall be audible from any parcel located in a residential district.
- f. All customer and employee parking shall be clearly designated and signed.
- g. No motor vehicle transport loading or unloading shall be permitted on any minor residential street.
- h. No display or storage of motor vehicles shall be permitted on any public right-of-way.
- i. No vehicle repair, maintenance or body work is permitted on the site.
- j. Signs must meet the requirements of the Empire Zoning Ordinance.

E. Conventional Single Family Detached Residential Developments

1. A development consisting only of single-family detached homes may be platted as a conventional subdivision, subject to the applicable dimensional standards for detached dwellings and the platting requirements of the Empire Township Subdivision Ordinance.
2. Family Accessory Housing Quarters.
  - a. Intent. It is the intent of this provision to allow consideration for the inclusion of an accessory housing quarter located within a single family detached dwelling. Such family accessory housing quarters are specifically intended to be used by parents, siblings, adult children and other family members with special age-related, physical, or mental disabilities or needs. Such provisions are not to be misconstrued as single family attached housing units or to be used as separate rental units.
  - b. Standards. Family accessory housing quarters will only be considered at the time of initial single family home construction through the site plan review and approval process by the Planning Commission. All family accessory housing quarters shall meet the following minimum standards:
    - (1) Family accessory housing quarters shall be incorporated into the design and appearance of the primary residence and shall not detract from the design or the scale of the prominent housing styles in the immediate neighborhood.
    - (2) Family accessory housing quarters shall be allowed a single attached garage stall with individual access into the accessory living quarters. The accessory garage shall be attached to the primary garage or shall be designed in a manner that does not accentuate or highlight any prominence of a family accessory housing quarter or diminish the design integrity of the primary residence. No exterior access door to a family accessory housing quarter shall be visible from the street on the front elevation of the primary residence.
    - (3) The maximum size of family accessory housing quarters, excluding the accessory garage, shall not exceed twenty-five percent of the finished primary residence square footage.
    - (4) Family accessory housing quarters shall be limited to first floor or at-grade occupancy.

- (5) Family accessory housing quarters shall not have independent HVAC systems or individually metered public and private utility services.
- (6) Family accessory housing quarters may include separate bathroom facilities, living quarters, sleeping quarters, and kitchenette.
- (7) Family accessory housing quarters shall not be separated from the primary dwelling by fire-rated walls or similar separations required in attached residential housing.
- (8) Family accessory housing quarters shall not be internally separated from the primary dwelling by deadbolts intended to prevent access from either living quarter to the other.
- (9) Family accessory housing quarters shall share the same postal address as the primary residence.
- (10) Family accessory housing quarters shall not be inconsistent with any other Township ordinance provisions or regulations.
- (11) Family accessory housing quarters shall not cause nor result in perpetual on-street parking from any occupants of the primary and accessory dwelling. Perpetual shall mean on-street parking for more than seven consecutive days or more than ten days in any calendar month.
- (12) No home with a family accessory housing quarter shall be located within two lots on the same side of the street or within five lots of the opposite side of the street containing a single family dwelling with a family accessory housing quarter (Draft note: this could result in an accessory quarter located every six homes, staggered across the street, on the same street – or less than 15% of the total lots).
- (13) No home with a family accessory housing quarter shall be located on a lot less than 15,000 square feet, unless the lot is included in a Planned Unit Development and the lot is specifically approved for such use.

#### F. Mixed Residential Developments

1. Required Review. Mixed residential developments are processed and reviewed as Planned Unit Developments.
2. Performance Standards. A mixed residential development must comply with the following standards:
  - a. Housing unit mix: A ratio of a minimum of sixty percent (60%) detached housing units to a maximum of forty percent (40%) attached housing units shall be maintained in each individual subdivision, unless modified and approved during Planned Unit Development review by the Township.
  - b. Maximum density: Three (3) units per acre overall average within the MXR development, unless modified according to PUD provisions outlined in (7.6.5) below. The maximum density for attached residences within a portion of the development area shall be six (6) units per acre, unless modified and approved during Planned Unit Development review by the Township.
  - c. Minimum lot area/lot width:

<u>Structure Type</u>	<u>Minimum Lot Area</u>	<u>Minimum Lot Width</u>
Detached	15,000 sq. ft.	100 feet
Duplex	7,500 sq. ft. per unit	75 feet per unit
Attached	6,000 sq. ft. per unit	No established
Church/School – no minimum	of private or common site area	minimum lot width

3. Minimum structure separation:

<u>Structure Type</u>	<u>Minimum Structure Separation</u>
Detached	20 feet
Duplex	20 feet
Attached/Church School	30 feet or height of building, whichever is greater

4. Maximum site coverage (maximum impervious surface):

<u>Structure Type</u>	<u>Maximum Site Coverage*</u>
Detached	25%; 30% with additional drainage features
Duplex	25%; 30% with additional drainage features
Attached/Church School	50% (includes private and common ownership areas)

\* additional drainage features include rain gardens and other infiltration techniques considered on a case by case basis by the Township Engineer

5. Maximum height: 35 feet

6. Roadway setbacks: apply to all lot frontages (corner lots have double setback standards)

<u>Road Type</u>	<u>Minimum Setback – All Structures</u>
Arterial	150 feet from centerline or 50 feet from right-of-way, whichever is greater
Collector	50 feet from right-of-way
Local	40 feet from right-of-way
Private	30 feet from curb

7. Side yard setbacks: (corner lots have two front yards and the two yards opposite the street frontages are considered side yards)

<u>Structure Type</u>	<u>Minimum Side Yard Setback-All Structures</u>
Detached	10 feet

Duplex	10 feet
Attached	20 feet or the height of the building, whichever is greater

8. Rear yard setback:

Principal structures (including attached decks/enclosures)	30 feet
Detached accessory structures/pools	10 feet

9. Garage parking: 2 stalls/unit

10. Surface parking: 2 stalls/unit

11. Additional parking: Attached residential structures which do not directly abut public streets with permitted on-street parking shall be required to designate common or guest parking areas equal to one stall per two units, in addition to the garage and surface parking requirements. A modification of the total parking requirements may be made in instances where the surface parking areas are not in tandem with required garage parking.

12. Private Streets. Whenever it does not contradict the provisions of this Ordinance as it relates to an adopted transportation plan or the protection of opportunities for reasonable development of surrounding land adjacent to a development proposed in the application, streets which are intended to be kept continuously closed to public travel or are at all times posted as private streets may be retained as private streets and so reflected upon the final plat made a part of the permit; provided an agreement is entered into between the owner of said private streets and the community assuring that the construction, operation and maintenance of said streets will be executed in accordance with the approved PUD.

13. Accessory Buildings (Garages).

- a. Accessory buildings within single family attached and duplex residential properties shall be reviewed according to the process utilized for consideration of a preliminary plat or PUD.
- b. Accessory buildings within single family detached residential properties are permitted uses requiring building permits, unless restricted by private subdivision covenants. A maximum of two (2) accessory buildings, unattached to the principal structure, may be permitted per residential lot, and only one may exceed 120 square feet, which shall comply with the following standards:
  - (1) The setbacks for the structure shall meet the same setbacks for the principal structure.
  - (2) The side walls of the structure shall not exceed 11 feet in height, measured from finished floor to top of shingle at exterior wall.
  - (3) The total gross square footage of an accessory building shall not exceed 800 square feet, except that the aggregate total square footage of all accessory buildings (including all sheds and similar storage buildings not exceeding 120 square feet) on a single lot shall not exceed 800 square feet.

- (4) The pitch of the roof and the dimensions of the overhang of the structure shall match or be substantially compatible with the principal structure on the property.
  - (5) The exterior materials of the structure shall match or be substantially compatible with the principal structure on the property.
  - (6) The determination of the compatibility of the accessory building with the principal structure shall be at the discretion of the Planning Commission.
14. Driveways. A maximum of one driveway is permitted on each single family detached dwelling lot. Driveways shall be surfaced with bituminous, concrete, or brick. Driveways shall be a minimum of 12 feet in width and a maximum of 24 feet in width at the right of way line. Driveways shall be setback a minimum of 5 feet from the side yard property line or the width of a side yard drainage and utility easement, whichever is greater. Driveway locations, dimensions, and standards for single family attached dwellings shall be determined on a case by case basis in the subdivision review process. Driveway permits are required by the Township for all driveways.

G. Mixed Residential District – Planned Unit Development (PUD) Requirements

The purpose of the PUD provisions is to encourage high quality design standards for development and alternative subdivision design techniques. Dimensional criteria of the MXR District may be modified or varied for PUD developments in exchange for higher site design standards, higher architectural standards, site preservation techniques, extraordinary parkland development, pedestrian circulation, trails linkage to other neighborhoods and community destinations, and other unique development considerations.

PUD review and approval is a discretionary action by the Township, and the eligibility of a proposed development as a PUD shall be determined solely by the Township. Proposed variations from the dimensional standards of this Ordinance shall only be approved when it is determined by the Township that such variations are commensurate with benefits to the planned neighborhood and overall community. Such a determination shall include but not be limited to the following considerations:

1. Master site planning and creative design in the proposed development of the land and uses.
2. Variety in housing styles and housing types and provisions for life cycle and affordable housing opportunities.
3. Architectural design components and controls for all planned uses and structures.
4. Protection and incorporation of unique natural features into the overall planned community.
5. Creation of larger expanses of usable public and private open spaces, planned recreational facilities, and pedestrian accesses throughout the proposed development.
6. Turnkey improvements for public parks and recreation areas.
7. Landscaping plans for all proposed land uses, public and private parks, open spaces when appropriate, major transportation corridors, transition areas between land uses, and within screening and buffering areas.

8. Appropriate screening and buffering of residential uses from major transportation corridors and dissimilar land uses.
9. Compatibility with the Comprehensive Plan.
10. Consistency with existing goals and policies of the Township.
11. Compatibility with existing and potential development patterns.
12. Appropriate transitions between land uses to ensure compatibility within and adjacent to the proposed development.
13. Consistency with the general intent of the Empire Township Zoning Ordinance and strict compliance with the General Provisions and minimum Performance Standards of the Zoning Ordinance.
14. Private subdivision covenants necessary to guarantee adherence to architectural standards, to implement master planning components of the proposed development, and to satisfy required private and public area maintenance provisions.
15. Appropriate transportation access, circulation, design and impact mitigation, including required improvements to adjacent roadways serving the proposed development.
16. Financial participation in off-site improvements required to connect the proposed development to existing and planned neighborhoods and existing and planned public utility and transportation infrastructure

#### H. PUD Application and Procedures

1. All requests for mixed residential developments shall include subdivision platting requirements with PUD submittal requirements. A preliminary plat and Concept PUD shall be a combined submittal and require a public hearing according to the Empire Township Subdivision Ordinance. A final plat and final PUD submittal shall be required after preliminary plat and Concept PUD approval. Preliminary and final data shall be accompanied by a series of site plans and data including but not limited to the following:
  - a. Complete details of the proposed site development, including location of buildings, driveways, parking spaces, dimensions of the parking spaces, dimensions of the lots, lot area and yard dimensions, sidewalks, and trails.
  - b. Complete recreation plans illustrating all recreational facilities and structures, including trails.
  - c. Complete circulation plans for proposed pedestrian and vehicle traffic.
  - d. Population and services required (types and amounts).
  - e. Complete plans for screening, fencing, and landscaping.
  - f. Preliminary architectural plans showing the floor plans and elevations of the proposed buildings.
  - g. Complete plans and specifications for exterior wall finishes proposed for all principal and accessory structures.
  - h. Complete data pertaining to dwelling unit sizes and ratios of dwelling units to total lot space.

- i. A 2-foot contour topographic map of the existing site. All wetlands, floodplains and shoreland areas must be delineated.
- j. A grading plan illustrating the proposed grade changes from the original topographic map. All site areas, when fully developed, shall be completely graded so as to adequately drain and dispose of all surface water, stormwater and groundwater in such a manner as to preclude large-scale erosion, unwanted ponding, and surface chemical run-off. An erosion control plan consistent with best management practices must also be submitted.
- k. Complete plans and documents of the homeowners association, which explain:
  - (1) Ownership and membership requirements.
  - (2) Organization of the association.
  - (3) Time at which the developer turns the association over to the homeowners.
  - (4) Approximate monthly or yearly association fee for homeowners.
  - (5) Specific listing of items owned in common, including such items as roads, recreational facilities, parking, common open space grounds and utilities.

#### **5.07 NC – Neighborhood Commercial District**

##### **A. Purpose and Scope**

In addition to the general purposes stated in Section 2, the NC District is intended to allow for limited neighborhood convenience commercial uses within planned residential areas and where public utilities are available.

##### **B. Permitted Uses**

1. Convenience gasoline service and convenience goods retail sales.
2. Retail sales.
3. Electronics sales and rentals.
4. Bakeries, coffee shops, and restaurants, except drive-through restaurants.
5. Offices and medical facilities.
6. Dry cleaning, tailoring, hair salons, and similar personal services.
7. Off-sale liquor sales.
8. Fitness centers.
9. Customary commercial accessory uses.
10. Essential services.

##### **C. Conditional Uses**

1. Drive-through restaurants.
2. Commercial day care centers.
3. Household goods repair services.



4. Second story residential units.
5. Animal care facilities.
6. Car washes.

D. Interim Uses

1. (Reserved for future use).

E. NC District Performance Standards

1. NC District structures shall be designed to be compatible with residential neighborhood character and with brick or textured masonry as the predominant exterior building material or appearance.
2. All structures with plumbing are required to be connected to the municipal water and sewer system.
3. Access spacing shall be consistent with the Empire Township Transportation Plan.
4. Outside storage of materials is prohibited.
5. All dumpsters shall be located indoors or within attached enclosures matching the principal structure building materials.
6. Roof top mechanical systems shall be screened with compatible fencing or parapet walls.
7. Delivery and loading areas shall be screened as required in the site plan review and approval process.
8. Parking shall conform with the requirements in Section 6.16 of this Ordinance.
9. Second story residential units shall be provided one on-site enclosed above ground or below ground parking space per unit.
10. Accessory structures shall be compatible with principal structures.
11. All uses shall conform with minimum landscaping requirements of Section 6.15 of this Ordinance.
12. Site and building lighting shall be shrouded and cast downward to minimize glare and off-site impacts.
13. Site and building signage shall be consistent with the performance standards in Section 6.20 of this Ordinance.

F. NC District Dimensional Standards

- |   |                    |
|---|--------------------|
| 1. Lot Area:                            | 20,000 square feet |
| 2. Lot width:                           | 150 feet           |
| 3. Lot depth:                           | 120 feet           |
| 4. Front yard/street structure setback: | 30 feet            |
| 5. Side yard structure setbacks:        | 10 feet            |
| 6. Rear yard structure setbacks:        | 30 feet            |

- |                               |  |
|-------------------------------|--|
| 7. All yard parking setbacks: | 10 feet from all property lines          |
| 8. Maximum structure height:  | 35 feet                                  |
| 9. Maximum lot coverage:      | 75%, consistent with Ordinance No. 350-A |

### **5.08 HC – Highway Commercial District**

#### **A. Intent**

In addition to the general purposes stated in Section 2, the HC District is intended for limited highway commercial uses located at the intersections of principal arterial highways, serving the highway user and resident and working populations. Only uses which can demonstrate the ability to effectively provide private sewer, water, and stormwater facilities may be allowed in the HC District.

#### **B. Permitted Uses**

1. Gasoline sales and convenience goods retail sales.
2. Restaurants, except drive-through restaurants.
3. Off-sale liquor sales.
4. Customary commercial accessory uses.
5. Essential services.

#### **C. Conditional Uses**

1. Drive-through restaurants.
2. Gasoline sales and accessory auto repair service.
3. Car washes.
4. Commercial day care centers.
5. Household goods repair services.
6. Animal care facilities.

#### **D. Interim Uses**

1. (Reserved for future use).

#### **F. HC District Performance Standards**

1. All uses must demonstrate the ability to safely and efficiently design and maintain private sanitary sewer, water, and stormwater systems.
2. Access spacing shall be consistent with the Empire Township Transportation Plan.
3. Outside storage of materials is prohibited, except as allowed by conditional use permit.
4. All dumpsters shall be located indoors or within attached enclosures matching the principal structure building materials.
5. Roof top mechanical systems shall be screened with compatible fencing or parapet walls.
6. Delivery and loading areas shall be screened as required in the site plan review and approval process.

7. Building design and parking shall conform with the requirements in Section 6.16 of this Ordinance.
8. All uses shall conform with minimum landscaping requirements of Section 6.15 of this Ordinance.
9. Site and building lighting shall be shrouded and cast downward to minimize glare and off-site impacts.
10. Accessory structures shall be compatible with principal structures.
11. Site and building signage shall be consistent with the performance standards in Section 6.20 of this Ordinance.

**G. HC District Dimensional Standards**

- |   |  |
|---|--|
| 1. Lot Area:                            | 2 acres                                  |
| 2. Lot width:                           | 220 feet                                 |
| 3. Lot depth:                           | 220 feet                                 |
| 4. Front yard/street structure setback: | 130 feet from roadway centerline         |
| 5. Side yard structure setbacks:        | 10 feet                                  |
| 6. Rear yard structure setbacks:        | 30 feet                                  |
| 7. All yard parking setbacks:           | 10 feet from all property lines          |
| 8. Maximum structure height:            | 35 feet                                  |
| 9. Maximum lot coverage:                | 75%, consistent with Ordinance No. 350-A |

**5.09 LI – Light Industrial District**

**A. Intent**

In addition to the general purposes stated in Section 2, the LI District is intended for light industrial uses located within the municipal sewer and water service area and within the Mineral Extraction Overlay area identified in the Empire Township Comprehensive Plan. Only uses which can demonstrate the ability to safely and effectively provide private sewer, water, and stormwater facilities may be allowed outside of the municipal sewer and water district.

**B. Permitted Uses**

1. Contractor businesses and sales.
2. Office-showrooms.
3. Office/warehouse.
4. Indoor building supply centers.
5. Landscape material supplies and sales.
6. Cabinet making and sales.
7. Fitness centers.

8. Implement sales and service.
9. Automobile sales and service.
10. Recreational equipment sales and service.
11. Mini-storage warehousing.
12. Agriculture production and sales.
13. Greenhouses and nurseries.
14. Welding and machine shops.
15. Customary light industrial accessory uses.
16. Essential services.

C. Conditional Uses

1. Lumber yards.
2. Production, assembly and processing facilities, except animal, solid waste, and hazardous waste processing.
3. Household product recycling facilities.
4. Heavy equipment sales and service.
5. Distribution facilities.
6. Outdoor storage associated with permitted uses.

D. Interim Uses

1. (Reserved for future use).

E. LI District Performance Standards

1. All uses located within the municipal sewer and water service area must connect to municipal services.
2. All uses not located within the municipal sewer and water service area must demonstrate the ability to safely and efficiently design and maintain private sanitary sewer, water, and stormwater systems.
3. Pole buildings are not allowed in the LI District. Building exteriors facing public roads and residential or commercial zoning districts shall be constructed primarily with brick or masonry materials or comparable appearance.
4. Access spacing shall be consistent with the Empire Township Transportation Plan.
5. Outside storage of equipment and materials shall be completely screened from public roads and abutting residential or commercial zoning districts.
6. All dumpsters shall be located indoors or within enclosures matching the principal structure building materials.
7. Delivery and loading areas shall be screened from public roads and abutting residential or commercial zoning districts
8. Building design and parking
9. All uses shall conform with minimum landscaping requirements of Section 6.15 of this

Ordinance.

10. Site and building lighting shall be shrouded and cast downward to minimize glare and off-site impacts.
11. Site and building signage shall be consistent with the performance standards in Section 6.20 of this Ordinance.

**B. LI District Dimensional Standards**

1. Lot area – municipal services: 20,000 square feet
2. Lot area – private services: 2 acres
3. Lot width – municipal services: 150 feet
4. Lot width – private services: 220 feet
5. Lot depth – municipal services: 120 feet
6. Lot depth – private services: 220 feet
7. Front yard/street structure setback: 30 feet from Township ROW
8. Front yard/street structure setback: 130 feet from State/County centerline
9. Side yard structure setbacks: 10 feet
10. Rear yard structure setbacks: 30 feet
11. All yard parking setbacks: 10 feet from all property lines
12. Maximum structure height: 50 feet
13. Maximum lot coverage: 75%, consistent with Ordinance No. 350-A

**5.10 ME – Mineral Extraction District**

**A. Intent**

In addition to the general purposes stated in Section 2, the ME District is intended to allow mineral extraction within the Mineral Extraction Overlay District designated in the Empire Township Comprehensive Plan.

**B. Permitted Uses**

1. Agriculture.

**C. Conditional Uses**

1. Sexually Oriented Businesses, as defined, licensed and regulated in Empire Township Ordinance No. 260.

**D. Interim Uses**

1. Mineral Extraction, including crushing, washing, and conveying aggregate, subject to the procedures and requirements of Section 7.06 of this Ordinance, the standards and conditions of Ordinance No. 450 Empire Township Mineral Extraction Ordinance, and the standards and conditions of Ordinance No. 350-A Water Resources Management Ordinance.

2. Concrete, ready-mix, bituminous, and asphalt production facilities, accessory to mineral extraction, subject to the procedures and requirements of Section 7.06 of this Ordinance, the standards and conditions of Ordinance No. 450 Empire Township Mineral Extraction Ordinance, and the standards and conditions of Ordinance No. 350-A Water Resources Management Ordinance.
3. Wholesale and retail sales and distribution of landscape, stone, and masonry products, subject to the procedures and requirements of Section 7.06 of this Ordinance, all performance standards of this Ordinance, and the standards and conditions of Ordinance No. 350-A Water Resources Management Ordinance.

### **5.11 FO – Floodplain Overlay and SO – Shoreland Overlay Districts**

#### **A. Intent**

It is the intent of the Floodplain and Shoreland Overlay Districts to reference jurisdictional relationships of Empire Township and Dakota County with respect to floodplain and shoreland areas. Land use and zoning authority within Empire Township is superseded by Dakota County as it relates to floodplain and shoreland regulations within those areas identified in Dakota County Ordinance No. 50 Shoreland and Floodplain Management Ordinance.

#### **B. Allowable Uses, Structures, Dimensional Standards and Performance Standards**

Allowable uses and structures in the Floodplain and Shoreland Overlay Districts shall be governed by the underlying zoning district, except as modified by regulations in Dakota County Ordinance No. 50 Shoreland and Floodplain Management Ordinance. Dimensional standards and performance standards in the Floodplain and Shoreland Overlay Districts shall be governed by the underlying zoning district, except as modified by regulations in Dakota County Ordinance No. 50 Shoreland and Floodplain Management Ordinance.

## **SECTION 6 PERFORMANCE STANDARDS**

### **6.01 Private Sewage Treatment System and Water Supply System Standards**

- A. Private Sewage Treatment System Standards. Standards for the installation and repair of individual sewage treatment systems (ISTS) or subsurface sewage treatment systems (SSTS) are established by the Minnesota Pollution Control Agency and implemented by Dakota County Ordinance No. 113 Subsurface Sewage Treatment Systems, which ordinance is hereby adopted by reference.
1. No person shall install, repair or alter ISTS/SSTS without first obtaining a permit as provided herein. Applications provided by the Township must be completed in writing prior to issuance of a permit. Permit fees are established by the Town Board.
  2. Installation, repair, pumping, and hauling of ISTS/SSTS requires licensing per Dakota County Ordinance No. 113.
  3. Soil tests must be completed and must be favorable for the operation of ISTS/SSTS before a permit will be issued.
  4. Installations, alterations, repairs, maintenance and inspections shall be performed in accordance with Dakota County Ordinance No. 113.
  5. No ISTS/SSTS shall be permitted on any site less than 1 acre.
- B. Private Water Supply System Standards. All private water supply systems constructed in the Township shall meet the standards established by the Minnesota Department of Health and regulations adopted by Dakota County in Ordinance No. 114.

### **6.02 Odors and Emissions**

Odors and emissions from any use shall not exceed the regulations set forth by Minnesota Pollution Control Agency rules.

### **6.03 Outdoor Wood Burning Furnaces**

Outdoor wood burning furnaces, stoves and/or boilers shall only be permitted in the AG Agriculture District. Outdoor wood burning furnaces shall meet all federal and state design standards and emissions limits. Outdoor wood burning furnaces shall be set back a minimum of 250 feet from any adjacent property residence and a minimum of 150 feet from any public road.

### **6.04 Dust and Particulates**

Dust and particulate matter from any use shall be in compliance with and regulated by Minnesota Pollution Control Agency rules.

### **6.05 Noise and Vibrations**

Noise and vibrations generated from any use shall be in compliance with and regulated by Minnesota Pollution Control Agency rules.

### **6.06 Glare and Illumination**

Glare or illumination from any source of lighting from any use shall be aimed downward and deflected away from adjoining property and public rights of way, except street lighting, traffic signals, highway construction, emergency construction, and seasonal recreational field lighting.

The maximum illumination of any light source at a property line or public rights of way shall not exceed one foot candle.

### **6.07 Solid and Hazardous Waste**

All waste generated from any use shall be managed in compliance with and regulated by Minnesota Pollution Control Agency rules, Dakota County Ordinance No. 110, and Dakota County Ordinance No. 111. Waste generated on any premises shall be kept in containers designed for waste collection and stored in a structure or within an enclosed or screened area. The accumulation, storage, processing or disposal of waste, compost, or recyclable materials on any premises, which is not generated on that premises, is prohibited, except as specifically provided in this Ordinance.

### **6.08 Bulk Storage**

The storage of all bulk liquids, fuels, chemicals, and gases shall be in compliance with and regulated by Minnesota Pollution Control Agency rules, Minnesota State Fire Marshal rules and the Minnesota State Building code. The storage of bulk liquids, fuels, chemicals, and gases shall be prohibited in residential zoning districts except for individual home heating fuels and gases. The storage of bulk liquids, fuels, chemicals, and gases in other zoning districts shall require a Conditional Use Permit, Interim Use Permit or site plan review.

### **6.09 Outside Storage**

All products, materials and equipment, except as specifically provided in this Ordinance, shall be stored within permitted structures, except for the following:

- A. Agricultural products, vehicles, equipment, and appurtenances owned by the owner of the property within the AG District and used in connection with farming operations.
- B. Licensed, operable vehicles, in residential zoning districts, owned by the occupants of the property and not exceeding one vehicle per licensed occupant.
- C. Clothes lines, antennae, air conditioners, outdoor grills, play equipment, ornaments, monuments, and similar customary uses.
- D. Temporary storage of materials and equipment during construction and landscaping.
- E. Storage of products, materials and equipment, excluding rubbish or junk, which is necessary to an approved business operation in a commercial or industrial district, and which is appropriately screened from adjoining properties and rights-of-way. The site plan review process is required to determine the appropriateness for storage permitted in this section, surfacing required for the storage area, and the screening required.
- F. Outside display of vehicles, equipment, and merchandise for direct sale to consumers when such outside display is customary and necessary to the trade and is an allowable use within the zoning district. The site plan review process is required to determine the appropriateness of the storage or display proposed, surfacing required for the display area, and any additional landscaping or screening which may be required.



**6.10 Stormwater Management**

Land disturbances, controlling erosion and sedimentation, and managing stormwater shall be in accordance with Ordinance No. 350-A Water Resources Management Ordinance, adopted by the Township.

**6.11 Wetland Protection and Management**

Wetlands shall be protected and managed in accordance with the Wetlands Conservation Act of 1991, as amended, and Ordinance No. 350-A Water Resources Management Ordinance.

**6.12 Right to Farm**

The Township has found that protecting and preserving land for agriculture is in the best interests of the community and protects the public health, safety and welfare by implementing community goals and policies. Agriculture often includes such activities as the intense use of farm equipment and machinery; plowing during dry and windy conditions; the raising of livestock and fowl; the use of irrigators over extended periods of time; and the use of soil amendments, including manure, herbicides and pesticides. These activities may be considered nuisances or inconveniences in more urban settings; however, these activities are common in an agricultural community and vital to the sustenance of an agricultural economy. For the purposes of this Ordinance, farm activities or agricultural activities shall not be considered a public nuisance, provided that such activities do not violate any State statute or rule or any other laws or ordinances.

**6.13 Feedlot Management**

Animal feedlots shall be registered and managed in accordance with Minnesota Rule Chapter 7020 and the requirements of Dakota County. The following table identifies the minimum separation of feedlots from existing residences on adjacent properties and the minimum separation of future residences on adjacent properties from existing feedlots.

<b>Animal Units</b>	<b>Minimum Distance</b>
<5	50 feet
5-50	250 feet
51-150	500 Feet
151-750	1,000 feet
751 or more	¼ mile

**6.14 Animal Control**

- A. Animal Control. Requirements for animal control are contained in Ordinance No. 210-B Animal Control Ordinance, as amended.
- B. Animal Density. Only domestic pets are allowed in the MXR District. Animal units shall not exceed the following densities in the AG District:

<u>Contiguous Acres</u>	<u>Acres per Animal Unit</u>
less than 20	2



other discernible animal noises for a period of five minutes or more with a time lapse of 30 seconds or less of no sounds or are those intermittent sounds lasting for a period of 30 minutes or more. Such animal noises must also be audible off of the owner's or caretaker's premises.

### **6.15 Woodland Preservation and Landscaping**

In residential areas, structures shall be located in such a manner that the maximum number of trees shall be preserved. If large numbers of trees are cut in residential areas, trees shall be replanted in a density and manner satisfactory to the Town Board. Clearcutting of woodlands for non-agricultural purposes is prohibited, unless the action involves a utility or roadway, required by the public, and includes a reforestation plan required by the Town Board. The preservation of existing trees shall be credited against the requirements for new landscaping, except that trees may still be required to be planted at the boulevard within new subdivisions for continuity of street plantings.

#### **A. Landscape Plans Required**

##### **1. Subdivision Requirements:**

- a. All subdivisions resulting in the creation of three (3) or more lots shall be required to incorporate a tree preservation plan with other subdivision application submittal requirements.
- b. The tree preservation plan shall include an inventory of healthy, desirable trees within the subdivision in excess of 4-inch caliper. The plan shall clearly identify which trees will be preserved and which trees will be removed.
- c. Healthy and desirable deciduous trees which are removed shall be replaced on a "caliper inch" basis. For example, a 10-inch caliper tree removed shall be replaced by a minimum of four 2.5-inch caliper trees, three 3.3-inch caliper trees, two 5-inch caliper trees or one 10-inch caliper tree, or any combination (meeting minimum standards) equaling a 10-inch caliper replacement.
- d. Healthy and desirable coniferous trees which are removed shall be replaced on "height footage" basis. For example, a 30-foot-tall coniferous tree removed shall be replaced with five 6-foot-tall trees, three 10-foot-tall trees, two 15-foot-tall trees or any combination (meeting minimum standards) equaling a 30-foot height replacement.
- e. A landscape plan shall be prepared, at sufficient detail, to illustrate the trees preserved on the site, as well as the type, size, and location of replacement trees.

##### **2. Site Plan Requirements:**

- a. Site plans shall be required for all development proposals which have not been included in a subdivision review referenced in subsection 1. above, except individual single-family detached dwelling building permit requests.
- b. Site plans shall include a tree preservation plan and a landscape plan consistent with the requirements referenced in subsection 1. above.

#### **B. Minimum Quantities**

All new development activities, including site modifications or use intensifications, shall be subject to landscaping improvements. The Town Board may at its sole discretion reduce the minimum required new landscape quantities on larger business developments, commensurate with other design and screening elements and available green space to support plantings. The following table illustrates requirements within each zoning district:

<u>District</u>	<u>Overstory Trees</u>	<u>Foundation Plantings</u> <sup>1</sup>
MXR (detached)	2 trees/unit/street frontage <sup>2</sup>	none
MXR (attached)	2 trees/unit/open space exposure <sup>3</sup>	1/10 lineal feet building and parking area
NC	8 trees, or 1 tree/3,000 sq. ft. site area <sup>4</sup>	1/10 lineal feet building and parking area
HC	8 trees, or 1 tree/3,000 sq. ft. site area <sup>4</sup>	1/10 lineal feet building and parking area
LI	8 trees, or 1 tree/3,000 sq. ft. site area <sup>4</sup>	1/10 lineal feet building and parking area
CUP/IUP <sup>5</sup>	8 trees, or 1 tree/3,000 sq. ft. site area <sup>4</sup>	1/10 lineal feet building and parking area

- <sup>1</sup> The calculation of the number of foundation plantings is based upon one (1) planting for each lineal foot of building perimeter and parking lot perimeter. Plantings may be grouped rather than dispersed at ten- (10) foot intervals. Foundation plantings are not required for single-family detached dwellings.
- <sup>2</sup> Trees shall be deciduous and planted at the boulevard line at minimum fifty- (50) foot intervals, except on cul de sacs, where one (1) of the required trees may be planted off the boulevard but in the front yard area.
- <sup>3</sup> Trees shall be deciduous. Unit exposures with street frontage shall be planted at the boulevard.
- <sup>4</sup> The required number of trees is based upon a minimum of eight (8) trees or one (1) tree per three thousand (3,000) square feet of site area, whichever is greater. Tree spacing must include trees at the boulevard at minimum fifty- (50) foot intervals.
- <sup>5</sup> Conditional and Interim uses allowed in various districts require landscaping similar to commercial/industrial district standards, unless modified by the Town Board.

C. Minimum Standards:

1. Overstory Trees:
  - a. Deciduous Trees: Two-and-one-half- (2.5) inch caliper planting size, balled and burlapped.
  - b. Coniferous Trees: Six (6) feet in height planting size, balled and burlapped.
2. Foundation Plantings. Coniferous and deciduous shrubs shall be planted at a minimum of one-third (1/3) of the mature spread and height of typical growth habits.

3. Boulevard Trees. All boulevard trees shall be hardwood shade trees or flowering trees.
4. Overstory Mix. When multiple quantities of overstory trees are required, at least seventy-five percent (75%) of the trees required shall be deciduous trees. The Town Board may at its sole discretion increase the percentage of coniferous trees if more screening is desired.
5. Hardiness. All proposed landscape materials shall be consistent with Minnesota hardiness zones, whether indigenous or foreign. Plant species must also be tolerant to snow storage, exposure to salt, and sun scald in parking areas.
6. Diversification. In any development in which at least eight (8) overstory trees or foundation plantings are required, at least three (3) varieties of plantings are required. In residential subdivisions, at least three (3) varieties of boulevard trees are required on each side of a block.
7. Warranty. All required landscape materials shall be warranted for growth for a minimum of two (2) years after planting.

### **6.16 Development Standards for Businesses and Institutions**

#### **A. Parking and Loading Standards.**

1. Location. All parking, drives and loading areas shall be located on the lot containing the building that they serve, unless an easement has been granted for access or loading to a public roadway or railway.
2. Stalls and Aisles. Parking stalls shall be 10 feet by 20 feet and aisles shall be 24 feet in width.
3. Setbacks. All parking, loading areas and drives shall be setback half the front setback area and 10 feet from all other property lines.
4. Surface. All parking, loading and driving areas shall be surfaced with asphalt, bituminous or concrete.
5. Amount. The following amount shall be required in addition to handicapped spaces required by law:
  - a. warehouses, wholesale businesses, and distribution facilities – one space per 1,000 sq. ft. gross building area
  - b. manufacturing and assembly – one space per employee on main shift plus customers
  - c. freight terminals and self service storage facilities – One space for the largest number of employees on site per shift
  - d. Mini-storage – one space per garage door in front of garage door
  - e. office – one space per 250 sq. ft. of gross building area
  - f. retail – one space per 200 sq. ft. of gross building area
  - g. Restaurants and assembly - one space per three seats
  - h. Schools – the greater of three per classroom or one space per three seats in largest assembly
  - i. other uses – as determined by the Town Board

6. Reduction of constructed parking stalls. The Township Board may allow reductions in the number of required parking stalls to be constructed if warranted by unique circumstances of the specific use of the building on the lot provided the following:
  - a. The applicant submits a proof of future parking plan demonstrating that the minimum number of required spaces can be provided on the lot in compliance with the applicable setback requirements of this Ordinance,
  - b. The applicant construct the minimum number of parking stalls required for the occupancy load of the building by the State Building Code, as may be amended,
  - c. The Township may require the installation of a portion or all of the required parking stalls whenever the need arises as demonstrated by vehicles parking on public streets for a continuous period of time or outside the parking area on or off the lot.
7. Loading docks. Loading docks or berths for trucks shall be screened by berms, landscaping and/or fencing from the property line of any adjacent public or residential use and any County or State highway. The berms, landscaping and/or fencing shall be of the height and amount necessary to reasonably screen the adjacent uses or roadways.

**B. Building Standards.**

1. In the Neighborhood Commercial District, all exterior wall surfaces of principal and accessory structures shall be constructed of wood siding, brick, decorative concrete block, stone, glass, architectural concrete, or precast concrete panels.
  2. In all other zoning districts, the exterior wall surface of the building facing public streets or residential districts shall be constructed of wood siding, brick, decorative concrete block, stone, glass, architectural concrete, or precast concrete panels. curtain wall panels of finished steel, fiberglass and aluminum or other compatible materials. Pole type metal buildings shall not be allowed as the primary structure.
  3. Authorized accessory buildings shall be compatible in building design and material to the primary building on the property.
  4. Dumpsters, trash bins, and recycling receptacles shall be located within the building or screened from public view by a fence or wall designed with the same or compatible materials as the primary building.
- C. Outside storage. Outside storage may be allowed in the LI and AE Districts in the rear of the primary building on the property, provided that the storage is accessory to a permitted use and screened by walls or fences to effectively conceal these areas from surrounding land uses and public roads.

D. Landscaping: (See Section 6.15)

E. Lot signage: (See Section 6.20)

**6.17 Communication Towers**

- A. Interim Use Permit Required. An Interim Use Permit is required for the construction or erection of any communications towers. Co-location uses are exempt from the IUP process, but require Planning Commission and Town Board approval.

- B. Co-location on Existing Structures. New towers or antennae must be co-located on existing structures in the Township, unless it can be documented that it is impractical to co-locate on an existing structure because of technical performance, system coverage or system capacity an existing structure cannot support co-location from a structural engineering standpoint or the lease rate of an existing structure is not “Rate Reasonable”. Rate Reasonable shall mean that the co-location lease rate is not more than one hundred fifty (150) percent of the co-location lease rate for towers within ten miles for which such lease rate information can be obtained. The determination that co-location on an existing structure is not practical because of technical performance, system coverage or system capacity shall be supported by findings from a qualified engineer.
- C. Height and Co-location Requirements for New Structures. New towers shall be designed and constructed to permit the future co-location of other commercial wireless telecommunication services, according to the following criteria:

<u>Height of Structure</u>	<u>Number of Co-location Required</u>
Less than 120’	No co-location required
Between 120’ and 160’	1 additional user accommodated
Greater than 160’	2 additional users accommodated

1. The maximum height of any tower and antennae shall be less than two hundred (200) feet.
  2. In the event a tower must be constructed in excess of one hundred sixty (160) feet in height, the owner of the tower shall reserve the right of co-location for one of the two additional users to the Township for the use by the Township for government communication services including but not limited to uses such as fire, police or rescue.
  3. In satisfying co-location requirements, the owner of the tower must provide adequate access to the tower site and space within the owned or leased area to accommodate co-location user’s equipment needs. Nothing in these regulations shall prevent the owner of the tower from requiring remuneration from a co-location user, excepting the co-location use reserved for the Township, and provided such remuneration is Rate Reasonable. The owner of the tower may also establish reasonable technical requirements for co-location to protect the owner’s investment and guarantee effective telecommunication service.
  2. The Township may utilize its reserved right for co-location in any manner consistent with the safe and efficient operation of communications services. The owner of the tower shall have the authority to determine whether the Township’s use of the tower is compatible with commercial wireless telecommunications services users on the tower. The owner of the tower shall have the authority to review all plans for co-location uses and require reasonable modifications for such plans to ensure safe and efficient operation of the communications services and protect the owner’s investment.
- C. Tower and Antenna Design. Towers and antennae shall be located and designed to blend into the surrounding environment to the maximum extent possible. Towers shall be of a monopole design unless it is determined that an alternative design would be appropriate for the particular site or circumstances. All towers shall be painted in a color best determined by the Township to blend into the particular environment.

- D. Tower Setbacks. All towers shall be setback from structures, rights-of-way and property lines at a distance equal to the height of the towers and antenna. The setbacks may be reduced to a distance agreed upon by the Township, if the tower applicant furnishes a registered engineer's certification that the tower is designed to collapse or fall within a distance or zone shorter than the total tower height. The Township may waive or modify setback requirements for antennae proposed to be co-located on existing towers or structures.
- E. Lighting. Towers shall not be illuminated unless required by a state or federal agency.
- F. Security. The site area for new or modified commercial wireless telecommunications services towers shall be totally fenced in to discourage access by unauthorized persons. The Township shall review and approve or modify all plans for fencing and security measures.
- G. Accessory Structures. The applicant shall submit site plans, elevations and construction details for all towers, antennae and accessory structures to be located on a site. All equipment must be enclosed within a building. The Township may require that any accessory structures be designed compatible with surrounding structures or natural environment and may require that landscaping materials be provided to screen accessory structures or equipment. Co-location users must construct buildings compatible with existing buildings on the premises.
- H. Signs. Signs, other than warning signs, equipment labels, emergency information or owner identification, are prohibited on any towers, antennae or accessory structures or equipment. No permitted signs shall exceed three (3) square feet in area.
- I. Interference. No wireless telecommunications service shall be permitted that causes any interference with commercial or private use and enjoyment of other legally operating telecommunications devices, including but not limited to radios, televisions, personal computers, telephones, personal communications devices, garage door openers, security systems and other electronic equipment and devices. An applicant must furnish Minnesota registered engineer's certification that no such interference will occur or identify what interference may occur and how the applicant will mitigate any potential inference that may occur.
- J. Construction Requirements. All wireless telecommunication towers, antennae and accessory uses shall be designed and constructed in accordance with all provisions of this Ordinance and all applicable state and federal codes. All plans must be certified by an engineer registered in the State of Minnesota.
- K. Abandonment. All towers and antennae not used for a period of twelve (12) consecutive months shall be considered abandoned and shall be removed. In the event any towers and antennae have not been removed within ninety (90) days written notice by the Township after abandonment, the Township shall have the right to remove the towers and antennae and assess the property. The applicant must furnish a copy of the relevant portions of an executed lease, which identifies the applicant's obligation to remove abandoned or unused towers and antennae, prior to issuance of a conditional use permit to erect a tower.
- L. Other Requirements. The Township may require additional information from the applicant and impose additional standards and regulations in approving plans for wireless telecommunications services to ensure and protect the public health, safety and welfare.



### 6.18 Wind Energy Conversion Systems

Performance standards for Wind Energy Conversion Systems, or “wind generators,” shall include the following:

- A. Wind generators are allowed in the AG District by Interim Use Permit.
- B. The maximum height of a wind generator, including the tower and highest point of a rotor blade above the ground, shall be less than two hundred (200) feet.
- C. Towers shall be set back from all property lines and road easements or road rights-of-way a distance equal to two (2) times the height of the tower, including the highest point of the rotor blade above the ground.
- D. No wind generator shall be located closer than five hundred (500) feet from an existing residence located on adjacent property.
- E. No wind generator shall be located closer than one thousand (1000) feet of any existing residential zoned property.
- F. The minimum ground clearance of the turbine, rotor blade or airfoil shall be twenty (20) feet.
- G. All wind generators shall have an automatic speed control and braking device.
- H. The Town Board shall determine whether a monopole or lattice tower shall be used to support the wind generator and what color the wind generator shall be.
- I. No lighting shall be permitted on the wind generator, except ground-level maintenance and security lighting. Such lighting shall be shrouded and aimed downward to minimize glare and illumination.
- J. No signage shall be allowed except warning, security, maintenance, and identification information affixed to the security fencing around the base of the wind generator. Such signage shall not exceed ten (10) square feet in area.
- K. Mechanical equipment accessory to the wind generator shall be enclosed within an accessory building, compatible with the wind generator design, or within equipment cabinets designed for such equipment, as determined by the Town Board. The base of the wind generator and all accessory equipment shall be enclosed with security fencing, approved by the Town Board. Screening of accessory buildings and equipment may be required by the Town Board.
- L. Issuance of an Interim Use Permit does not replace or eliminate the requirement for all other necessary permits, including but not limited to grading permits, stormwater permits, building permits, electrical permits, fencing permits, and right-of-way permits.
- M. Towers, turbines, rotor blades, and accessory equipment shall be designed and constructed in accordance with all provisions of this Ordinance and all applicable local, state, and federal laws, rules, regulations, licenses, and permits.
- N. The wind generator and all related equipment shall be maintained in proper working conditions at all times.
- O. No more than one (1) wind generator with an output of 40 kW or more shall be allowed per quarter-quarter section.

- P. The maximum term for a wind generator Interim Use Permit shall not exceed twenty (20) years.
- Q. Abandonment or disuse of the wind generator for a period of twelve consecutive months shall be grounds for termination of the Interim Use Permit.

### **6.19 Residential Building Rights Transfer**

Within the AG Agricultural Preservation District the transfer of non-farm residential building rights is allowed from one parcel to another, subject to the provisions of this Section.

#### **A. Residential Building Right**

A “residential building right” as described in this Section is the entitlement of a non-farm residential dwelling unit within the AG District. Non-farm residential dwellings are permitted at a maximum density of one dwelling per quarter-quarter section not containing another farm or non-farm dwelling unit. The Planning Commission and Town Board shall verify that any party wishing to transfer a residential building right has such an entitlement or building eligibility. In addition to the maximum density limitations, building eligibility is determined by the suitability of the land for residential building purposes. If an entire quarter-quarter section is encumbered by surface water, wetlands, floodplain, easements or other legal encumbrances, or if a potential residential building site is surrounded by and inaccessible due to such encumbrances, there shall be no residential building entitlement or eligibility.

#### **B. Residential Building Rights Transfer**

Any party wishing to convey a residential building right to another party may do so as a private transaction subject to the conditions and requirements of this Section.

#### **C. Eligible Building Rights Transfer**

Building rights may be transferred from one parcel to another within the AG District subject to the following conditions and requirements:

1. The Planning Commission and Town Board must verify the eligibility of the residential building right to be transferred.
2. The residential building right must be transferred to a legal lot of record, with public street access and suitability for an Individual Sewage Treatment System (ISTS), or to a parcel pending subdivision approval by the Township. A residential building right must be assigned to a specific parcel of land approved by the Township. All other Zoning Ordinance and Subdivision Ordinance provisions apply to the proposed building site.
3. A residential building right may only be transferred from eligible AG District quarter-quarter parcels where the principal use is agriculture.
4. Residential building rights may not be transferred from property located within the Metropolitan Urban Service Area, property subject to an Orderly Annexation Agreement, property on which a mining permit has been issued, property used for commercial recreation purposes, property used for education or religious purposes, or property used for public purposes.

5. Residential building rights may only be transferred to and used within the Southeast Quarter (SE ¼) of Section 1, East Half (E ½) of Section 12, East Half (E ½) of Section 28, East Half (E ½) of Section 33, Sections 23-27, and Sections 34-36, Township 114, Range 19.
6. The applicant for a building rights transfer shall be required to furnish a title opinion by an attorney or title insurance company on the status of the title and encumbrances of the property subject to a transfer of building rights for review and approval by the Township attorney.
7. A Building Rights Transfer Agreement must be executed by the applicant and recorded against the property from which the transfer of a residential building right is allowed.
8. A maximum of two residential building rights may be transferred at any one time from one party to another.

D. Recording of the Residential Building Rights Transfer and Conservation Easement Agreement

A Residential Building Rights Transfer and Conservation Easement Agreement prepared by the Township must be executed by the applicant and submitted to the Township for review and recording. The Residential Building Rights Transfer and Conservation Easement Agreement will legally identify the property involved in the transfer and note the elimination or loss of residential building rights on said property. The Agreement will also identify the property on which the building right will be assigned.

E. Fee and Reimbursement of Out-Of-Pocket Expenses

The applicant for a transfer of building rights shall submit a letter of request for a building rights transfer with a non-refundable fee of \$250.00. The applicant shall also be obligated to reimburse the Township for all out-of-pocket expenses incurred in the review and approval of the residential building rights transfer, including but not limited to planning fees, legal fees, and recording fees. The Township may require a cash escrow up to \$2000.00 to guarantee the payment of such costs.

## **6.20 Solar Electric Systems**

- A. Wholesale solar electric systems require an interim use permit and shall be limited to the AG Agricultural Preservation District.
- B. Wholesale solar electric systems are not currently permitted in any zoning district.
- C. No wholesale solar electric system shall be located within the Metropolitan Urban Service Area (as identified and illustrated in the Empire Township Comprehensive Plan) at the time of the issuance of the interim use permit.
- D. Retail solar electric systems in residential districts shall be limited to roof top systems. Roof top solar electric systems shall be mounted parallel to the plane of the roof, shall not extend more than one foot above the plane of the roof.
- E. Retail solar electric systems located in agricultural, commercial or industrial zoning districts may include roof top systems and ground mounted systems. Roof top systems shall not project more than four feet above the plane of the roof nor be located closer than six feet from the outer edge of the roof top. Ground mounted systems shall not exceed fifteen feet in

height, shall not be located in any required yard area, and shall not exceed 10% lot coverage or 10,000 square feet, whichever is less. Square footage is calculated by the area encumbered by the outermost measurements of the solar equipment layout.

- F. Wholesale solar electric systems shall be set back a minimum 125 feet from the centerlines of roadways, a minimum of 75 feet from all property lines, and a minimum of 300 feet from any adjacent property residential dwelling. The maximum height of wholesale solar electric system equipment, structures and accessory appurtenances shall not exceed 15 feet. Wholesale solar electric systems shall be enclosed by a minimum six feet high security fence.
- G. Wholesale solar electric systems shall not be lighted, except for shrouded, downcast security lights on major equipment or storage buildings. Signage shall be limited to equipment labeling, security warnings and messages, entrance identification and directional signs, and a single site identification sign. No individual sign shall exceed thirty-six square feet in area or extend more than 15 feet in height.
- H. No solar energy equipment or solar electric systems shall create or cause unreasonable glare on other property or public roadways. Unreasonable glare shall mean a public safety hazard as determined by the Board of Supervisors or the appropriate roadway authority.
- I. The Project shall not create or constitute a public nuisance, as regulated in this Ordinance.
- J. Electric power lines within all ground mounted solar electric systems shall be buried underground.
- K. All solar energy systems shall be consistent with applicable State Building Codes, State Electrical Codes, and State Plumbing Codes.
- L. All applicable solar energy equipment shall be certified by either the Underwriters Laboratories (UL) or Canadian Electrical Code (CSA 22.1), or the Solar Rating and Certification Corporation (SRCC) for thermal systems.
- M. All solar electric systems unused, abandoned or inoperable for more than twelve months shall be removed by the system owner or the property owner.
- N. Fencing, landscaping, and other screening may be required for any ground mounted or solar electric system. Deviations from dimensional standards (including setbacks) may be considered through public hearing procedures for permitting, based upon mitigation of off-site impacts through fencing, landscaping, screening, or other mitigation measures.
- O. All ground mounted solar electric systems shall prepare a stormwater management plan consistent with Ordinance 350-A, as amended. Any site grading shall be accompanied by an erosion and sedimentation control plan consistent with Best Management Practices for control components.
- P. All permit applications for ground mounted solar electric systems shall include a description of the vegetation or material under the solar system components and the method of ground care and vegetative maintenance.

## 6.21 Signs

- A. Intent.** It is the purpose of this Ordinance to protect the public health, safety, and welfare through the establishment of comprehensive and balanced regulations for signage in Empire Township. The Town Board finds that unregulated signage may be detrimental to community aesthetics and public safety. The Town Board finds that sign sizes, heights, and lighting have different aesthetic impacts within different zoning districts, such as residential districts and business districts, and that varying sign standards, based upon development density and highway traffic capacity, are appropriate to protect the public health, safety, and welfare.
- B. Definitions.** The following definitions are in addition to the definitions contained in Section 3. of this Ordinance. In the event of any conflict in the interpretation of any definitions, the definitions in this Section shall take precedence.

**Awning Sign** - A building sign or graphic printed on or in some fashion attached directly to the awning overhanging building windows or doors.

**Balloon Sign** - A temporary sign used to draw attention to property, with or without lettering, made of lightweight material supported by helium, hot, or pressurized air, and which is greater than eighteen inches in diameter.

**Banner Sign** - A temporary sign of flexible fabric mounted to a pole or a structure at one or more edges.

**Campaign Sign** - A temporary sign promoting the candidacy of a person running for an office, or promoting an issue to be voted on at an election.

**Canopy** - A roof-like structure without enclosed walls, attached to a building to cover a walkway or entrance, or an independent structure intended to provide cover from the weather.

**Changeable Copy Sign** - A sign or portion of a sign, which has a reader board for the display of text information in which letters, numbers and symbols may be changed or re-arranged manually.

**Changeable Copy Sign, Electronic** - A sign or portion thereof that displays electronic, non-pictorial, text information in which each letter, number, graphic, or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays. Electronic changeable copy signs include projected images or messages with these characteristics onto buildings or other objects.

**Construction Sign** - A non-illuminated sign placed at a construction site identifying the project or the name of the architect, engineer, contractor, financier and other involved parties, or announcing the character of the building enterprise or the purpose for which the building is intended.

**Development Project Sign** - A sign placed at a development site for the purpose of selling or promoting the project.

**Directional Sign** - Any sign which serves solely to designate the direction of any place or area and, as such, shall be located on the same lot as said place or area. Examples include "entrance" and "exit" signs.

**Dynamic Sign** - Any Electronic Changeable Copy Sign, Electronic Graphic Display Sign, Video Display Sign, or any other sign capable of electronic or digital messaging or display.

**Electronic Graphic Display Sign** - A sign or portion thereof that displays electronic, static images, static graphics or static pictures, with or without information, defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, re-pixelization or dissolve modes. Electronic graphic display signs include computer programmable, microprocessor controlled electronic or digital displays. Electronic graphic display signs include projected images or messages with these characteristics onto buildings or other objects.

**Flag** - Any fabric or similar flexible material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

**Flashing Sign** - An illuminated sign that blinks or changes in light intensity creating a blinking or flashing appearance, but not including any Dynamic Signs.

**Freestanding Sign** - Any sign which has supporting framework that is anchored in the ground, which is independent from any building or other structure and which has an open area between the ground and the sign face. The minimum open area between the ground and bottom of the sign face for all permanent freestanding signs greater than 50 square feet in area shall be 6 feet.

**Garage Sale Sign** - A temporary sign less than 12 square feet in area located on private property which advertises a temporary sale of residential household goods.

**Ground Sign** - A freestanding sign with its sign face mounted on the ground or mounted on a base attached to the ground at least as wide as the sign (see Monument Sign).

**Illuminated Sign** - Any sign which contains an element designed to emanate artificial light, internally or externally.

**Incidental Sign** - A small sign that has a directional or informational purpose for uses often secondary to the primary use of the property on which it is located, such as "service center," "drive-up window," "restroom," and other similar directives.

**Inflatable Sign** - A balloon sign or other three-dimensional object, with or without lettering, logos, or symbols, supported helium, hot or pressurized air, used for advertising or to draw attention to a property.

**Marquee** - A permanent roof-like structure projecting beyond an entertainment center or similar use or extending along and projecting beyond the wall of that building, generally designed and constructed to provide cover from the weather.

**Monument Sign** - A freestanding sign with its sign face mounted on the ground or mounted on a base attached to the ground at least as wide as the sign (see Ground Sign).

Motion Sign - Any sign which revolves, rotates, has any moving parts or gives the illusion of motion.

Mural - A work of graphic art painted on or applied to a building wall which contains no advertising or logos.

Name Plate - A sign which designates the individual names of businesses or names of the persons occupying a building.

Off-Premises Sign - Any sign bearing advertising or display unrelated to a business, enterprise, or profession conducted, or a commodity or service sold or offered upon the real property where such Sign is located.

On-Premises Sign - Any sign bearing advertising or display related to a business, enterprise, or profession conducted, or a commodity or service sold or offered upon the real property where such sign is located.

Pennant Sign - A rope with small flags or triangular shapes of fabric or plastic, with or without lettering, logos, or symbols, and used for advertising or to draw attention to a property.

Permanent Sign - A non-temporary sign designed and intended for long-term use.

Portable Sign - Any sign which is designed to be transported, by trailer or on its own wheels, and not permanently anchored to the ground.

Projecting Sign - A sign in which the plane of the sign is perpendicular to the wall on which it is attached.

Public and Institutional Use - Local, state, and federal governmental uses, public and private educational facilities, churches and religious facilities, and hospitals.

Public Service Sign - A non-commercial governmental sign containing public identification information, directional information, public advisories, or similar messaging serving a public purpose.

Pylon Sign - A freestanding sign which has one or more supportive structures anchored in the ground and which has a sign face elevated above ground level by one or more poles or beams and with the area below the sign face open.

Real Estate Sign - A temporary sign, less than 32 square feet in area in residential zoning districts and less than 96 square feet in area in commercial and industrial zoning districts, which announces the sale, rental, or lease of property by the owner or real estate company.

Sign - Any structure, placard, announcement, declaration, device, demonstration or insignia used for direction, information, identification or to advertise or promote any business, product, goods, activity, services, interests, or to draw attention.

Sign Area - A measurement including the outermost dimensions of the sign frame containing the sign face.

Sign Band - An area on an exterior wall of a building that is intended to be the common location of permitted wall signs for multiple messaging or multiple building tenant signs.

Sign Face - The surface of the sign upon which the message of the sign is exhibited.

Sign Height - The height of the sign shall be computed as the vertical distance measured from the base of the sign at average property grade within 30 feet of the sign to the top of the highest attached component of the sign.

Sign Structure - The base, poles, uprights, bracing, and framework which supports the sign face.

Subdivision Sign - A permanent sign designed to identify a residential or commercial subdivision.

Suspended Sign - A sign that is connected to and suspended from the underside of a horizontal plane surface, such as a canopy, marquee, or similar structure.

Temporary Sign - A sign which is not permanently affixed or installed, and is intended to be displayed for a limited period only.

Traffic Sign - A sign installed and maintained by a governmental entity for the purpose of directing pedestrian and vehicular movement, including but not limited to street signs, speed limit signs, stop and yield signs, caution signs, directional signs, and similar public service and traffic advisory signs located within public rights-of-way.

Video Display Sign - A sign that changes its message or background in a manner or method of display characterized by non-interrupted, constant motion or pictorial imagery, which may traffic signs, public safety signs, authorized directional signs, and similar public service signs.

Wall Sign - A sign in which the plane of the sign is attached parallel to the exterior wall of a building and does not extend more than two feet from the surface of the wall.

Wall Sign Area - A measurement including the outermost dimensions of the sign frame containing the sign face. In instances where sign lettering is affixed to the wall, sign area is the measurement of a polygon drawn around all of the letters (including logos or emblems) of the sign message.

C. **General Provisions.** The following provisions apply to all signs, except signs located within buildings and not visible from the exterior of the buildings.

1. Every parcel occupied with a structure shall have an address sign, clearly legible from the public street where access is located. Address signs may include numbering on a US Postal Service Mailbox, a monument with affixed address, or numbers affixed to a building. Address signs shall not exceed 4 square feet in area.
2. No sign shall be erected without first obtaining a permit, except address signs, garage sale signs, political signs, allowable public safety and traffic signs located within public rights-of-way.
3. No signs or notices may be located within public easements or rights-of-way or on utility poles, utility appurtenances, or trees within public rights-of-way, except street signs, traffic signs, public safety signs, authorized directional signs, and similar public service signs.
4. No sign shall be placed in a location that obstructs the view of drivers of vehicles or shall be placed in a location that is hazardous to pedestrians. The minimum sign setback at the intersection of public streets shall be no closer than 30 feet from the point of right-of-way



intersection, as measured along the rights-of-way and the sight triangle formed by these dimensions (other setbacks may apply). All permanent advertising signs shall be located at least 10 feet from all other property lines and road easements.

5. No sign shall be designed to mimic traffic and public service signs or be placed in a location that obstructs the view of traffic and public service signs.
6. On-premises traffic directional signs (e.g. "one-way" or directional arrows), not exceeding 2 square feet in area and 4 feet in height are permitted for all commercial, industrial, and public/institutional uses.
7. Off-premises, non-advertising, public service directional signs (e.g. hospital, school, and public/institutional facilities), not exceeding 2 square feet in area and 4 feet in height are permitted in all zoning districts.
8. No illuminated sign shall flash or change in illumination intensity, except for traffic signals, time and temperature signs, and as specifically permitted in this Ordinance.
9. No sign shall be painted on, attached to, or maintained upon trees, shrubs, or other natural features, except an address sign or subdivision monument sign which may be affixed to a landscape boulder.
10. No sign shall be painted on, attached to, or maintained upon a vehicle or trailer, except signs on vehicles and trailers which are related to the business and premises upon which the vehicles and trailers are kept or used in normal business functions.
11. No signs are permitted on accessory structures, except as specifically permitted in this Ordinance.
12. Signs are permitted on canopies covering the gasoline dispensing pump islands on properties approved for gasoline sales, provided the total signage square footage on the canopies does not exceed 120 square feet. Illuminated canopy signs are permitted. Dynamic canopy signs are not permitted.
13. The amount of ambient lighting from illuminated signs shall not exceed an intensity of illumination greater than 1 foot candle measured at the property line. The source of illumination on externally lighted signs must be shrouded and shall not allow the light source to be seen from or impact public rights-of way or adjacent properties.
14. Portable/temporary advertising signs (including banners, pennants, and inflatable signs) are prohibited in all districts except as specifically authorized below:
  - a. Temporary signs which are coincidental to or used in conjunction with a seasonal civic, school, or church function and are limited to use during that function.
  - b. Temporary garage sale signs not exceeding 16 square feet in area and not used at the same address more than 7 consecutive days nor more than 4 times per year.
  - c. Temporary construction signs advertising a public, institutional, residential, commercial, or industrial development not exceeding 64 square feet in area are permitted on a construction site until the project is completed.
  - d. Portable/temporary advertising signs are allowed four times per year per business for grand openings, anniversaries, holidays, or other special events.

- e. The period of use for any portable/temporary business advertising sign shall not exceed 21 consecutive days for any single event, and there shall be a minimum of 14 days between the use of special event portable/temporary advertising signs.
  - f. Portable/temporary signs shall not exceed 64 square feet in area and shall not be located in public rights-of-way or any location obstructing vehicular visibility.
  - g. Temporary retail product advertising signs that are no larger than 4 square feet in area and are attached to buildings, gas pumps, or authorized outdoor product displays are exempt from the above restrictions in subsection 14.d.
  - h. Signs that are no larger than 64 square feet in area for the sale of produce and agricultural products raised on the premises are exempt from the restrictions in this subsection, provided the signs are displayed only during the season of produce sales.
15. Legal nonconforming signs may not be expanded but may be continued through repair, maintenance, restoration, or sign face replacement, unless:
- a. the sign is discontinued for a period of more than one year (discontinued shall mean the use or business associated with the sign has been discontinued for a period of more than one year); or
  - b. the sign is destroyed by fire, neglect, or other peril to the extent of greater than 50% of its market value, and no building permit has been applied for within 180 days of when the sign was damaged.
16. Projecting signs shall be prohibited except as specifically permitted in this Ordinance.
17. All signs shall be maintained in a safe and aesthetic condition at all times.
18. Political and election campaign signs may be permitted on private property in any zoning district, but may not be placed sooner than ninety (90) days preceding the election involved and must be removed within ten (10) days following the election.
19. No sign shall be erected or maintained in the window of a building, which occupies more than forty percent (40%) of the area of said window area.
20. Dynamic signs permitted in this Ordinance shall meet the zoning district requirements established in subsection D. and the following minimum standards:
- a. The electronic display background color tones, illumination intensity, lettering, logos, pictures, illustrations, symbols, and any other electronic graphic or video display for advertising signs shall not change at intervals less than those prescribed in individual or may not include text and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames which give the illusion of motion, including but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes, not including electronic changeable copy signs. Video display signs include projected images or messages with these characteristics onto buildings or other objects.
  - b. The duration of the transition of the electronic image or message change shall be instantaneous and include no fading, scrolling, or other special effects, except authorized video display signs.

- c. All dynamic signs must be equipped with a default mechanism that will stop the messaging or freeze the image in one position when a malfunction in electronic programming occurs.
  - d. The sign must not exceed a maximum illumination of 7500 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk to dawn, as measured from the sign's face at maximum brightness. This standard may be modified by the Township to match accepted industry standards that are modified from time to time. All dynamic signs must be equipped with an automatic dimmer control or other mechanism that automatically controls the sign's brightness according to ambient conditions. In addition, all dynamic signs must be equipped with a default mechanism that will eliminate sign lighting or freeze the brightness at 500 nits when a malfunction in the automatic dimmer control occurs.
  - e. Small dynamic signs that are pedestrian-oriented, customer service signs and not highway-oriented, general advertising signs, such as drive-through restaurant menu boards and gas pump dispenser information, are permitted, but are not subject to restrictions on the frequency of message change intervals, illumination standards, or default equipment. Small dynamic signs are permitted up to four (4) square feet.
  - f. Dynamic signs, including video display signs, that are used for authorized outdoor sporting and recreation events, oriented toward patrons in grandstands or similar outdoor seating and not oriented toward highways or off-premises viewing, are permitted, but are not subject to restrictions on the frequency of message change intervals, illumination standards, or default equipment.
21. Freestanding sign area is calculated by multiplying the outermost dimensions of the sign face and structure holding or encasing the sign face. The column(s) or pole(s) supporting the freestanding sign are not included in the area calculation of signage, provided the column or pole structure is no more than 4 square feet in circumference or dimension. Freestanding signs may have two sign faces, provided the sign faces are parallel to each other and separated only by the framing and support system.
  22. Ground sign or monument sign area is measured by multiplying the outermost dimensions of the entire structure or the total area within a polygon surrounding an irregular shaped sign.
  23. Sign height is the distance between the average ground elevation within 30 feet of the sign and highest point of the sign structure.
  24. Wall sign area is measured from the outermost dimensions of the sign frame or the area within a polygon surrounding the message of individual lettering and/or logos and emblems attached to a wall. Wall signs may be attached to door or window awnings and shall be included in the maximum aggregate total sign area allowed.
  25. All signs shall be constructed according to all codes and standards and in such manner and of such material and workmanship that they shall be safe and substantial, shall be properly secured, supported and braced, and shall be kept with proper maintenance and repair, structurally and aesthetically. Freestanding illuminated signs permitted in this Ordinance shall be served with underground electrical service.

**D. Zoning District Provisions.**

1. AG Agricultural Preservation District. The following signs are permitted in the AG District.
  - a. One farm identification sign per farm, not exceeding 64 square feet in area nor 12 feet in height.
  - b. Seed manufacturer and identification signs, not exceeding 40 square feet in area nor 10 feet in height.
  - c. One non-illuminated subdivision monument per subdivision, not exceeding 100 square feet in area nor 12 feet in height.
  - d. One non-illuminated freestanding sign or ground sign for public parks at each entrance of the park, not exceeding 64 square feet in area.
  - e. Allowable business, public, and institutional uses are permitted one freestanding sign per principal use, not exceeding 80 square feet in area nor 20 feet in height, and one wall sign per principal structure per wall with public street exposure, not exceeding 15% of the wall area.
  - f. Allowable business, public, and institutional freestanding signs may include illuminated and dynamic signs, provided the sign message on dynamic signs does not change at intervals less than once every 1 minute.
  - g. Allowable business, public, and institutional wall signs may include illuminated signs, but not dynamic signs.
  - h. The dimensional standards and provisions for allowable freestanding signs, ground signs, monument signs, or wall signs in this subsection may be modified and expanded at the Township's discretion for uses of statewide or regional significance, including, county and state-owned facilities, regional parks, universities, and other prominent public and private institutional uses, when reviewed and permitted through the conditional use permit procedure.
2. MXR Mixed Residential District. The following signs are permitted in the MXR District.
  - a. One non-illuminated subdivision monument per subdivision, not exceeding 100 square feet in area nor 12 feet in height.
  - b. One non-illuminated freestanding sign or ground sign for public parks at each entrance of the park, not exceeding 64 square feet in area.
  - c. Allowable public and institutional uses are permitted one freestanding sign per principal use, not exceeding 80 square feet in area nor 20 feet in height, and one wall sign per principal structure per wall with public street exposure, not exceeding 15% of the wall area.
  - d. Allowable public and institutional freestanding signs may include illuminated and dynamic signs, provided the sign message on dynamic signs does not change at intervals less than once every 1 minute.
  - e. Allowable public and institutional wall signs may include illuminated signs, but not dynamic signs.

3. NC Neighborhood Commercial, HC Highway Commercial, and LI Light Industrial Districts. The following signs are permitted in the NC, HC, and LI Districts.
  - a. One freestanding sign per principal structure, not exceeding 80 square feet in area nor 20 feet in height, and one wall sign per principal structure per wall with public street exposure, not exceeding 15% of the wall area.
  - b. Allowable freestanding signs may include illuminated and dynamic signs, provided the sign message on dynamic signs does not change at intervals less than once every 1 minute.
  - c. Allowable wall signs may include illuminated signs, but not dynamic signs.
  - d. Principal structures designed for multiple users must include a “sign band” location for wall signs that have similar sign areas and shapes. The total sign band area shall not exceed 25% of the wall area.
  - e. Time and temperature signs may be incorporated into allowable freestanding signs, provided the time and temperature message does not change at intervals less than once every 1 minute.
4. ME Mineral Extraction District. The following signs are permitted in the ME District.
  - a. One freestanding sign per mineral extraction facility, not exceeding 80 square feet in area nor 20 feet in height, and one wall sign per principal structure per wall with public street exposure, not exceeding 15% of the wall area.
  - b. Authorized accessory uses may be allowed additional signage as prescribed in 4.a. above, provided such signage is specifically allowed in the Interim Use Permit.
  - c. Allowable ME District signs may include illuminated signs, but not dynamic signs.

**E. Administration and Enforcement.**

1. **Permit and Site Plan Required.** All signs require a permit, except address signs, temporary real estate signs, political and campaign signs, public service signs, and traffic signs. Applications for a sign permit shall be on a form provided by the Township. All applications shall be accompanied by a fee established by the Township and a site plan illustrating the location and dimensions of the proposed sign(s). The Clerk-Treasurer or designee shall issue a permit for all signs that are consistent with the provisions in this Ordinance and do not require a Conditional Use Permit or Interim Use Permit. Signs that require a Conditional Use Permit or Interim Use Permit shall be referred to the Planning Commission and Town Board for review and action as required in this Ordinance.
2. **Construction and Maintenance.** All signs shall be constructed according to all codes and standards and in such manner and of such material and workmanship that they shall be safe and substantial, shall be properly secured, supported and braced, and shall be kept with proper maintenance and repair, structurally and aesthetically. Freestanding illuminated signs permitted in this Ordinance shall be served with underground electrical service.
3. **Violations and Enforcement.** Violations of these sign provisions shall be subject to the enforcement and penalty provisions prescribed in this Ordinance.

4. Variance. Consideration for relief from strict enforcement of this Ordinance in the event of practical difficulties shall be according to the established provisions for variances in Section 7 of this Ordinance.

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**SECTION 7 ADMINISTRATION AND ENFORCEMENT****7.01 Administration**

- A. Administration. The Township Clerk-Treasurer or designee, as directed by the Town Board, shall act as the Zoning Administrator and shall be responsible for the administration and enforcement of this Ordinance.
- B. Zoning Administrator. The duties of the Zoning Administrator shall include, but not be limited to the following:
1. Inspect uses of land within the Township as available to determine compliance with the terms and provisions of this Ordinance.
  2. Respond to complaints about compliance or enforcement of this Ordinance.
  3. Maintain current and permanent records of this Ordinance, including but not limited to all maps, amendments, conditional use permits, interim use permits, variances, building permits, certificates of occupancy, and applications for all zoning requests.
  4. Receive, file, and forward all applications for all amendments, appeals, variances, conditional or interim uses, site plans, building permits and other related matters to all designated official bodies.
  5. Receive for deposit in the Township account all required fees for zoning applications and building permits.
  6. Instruct the Building Official to administer building and occupancy permits, and make and maintain records thereof.
  7. Consult the Planning Commission at any time to confirm any interpretation of this Ordinance when in question.
- C. Planning Commission. The Board of Supervisors shall appoint members of a Planning Commission according to its own policies and procedures. The Planning Commission members shall serve at the pleasure of the Board and shall serve staggered terms. Planning Commission members shall annually elect a chair to conduct all meetings of the Commission and shall elect a secretary to record the proceedings of the Commission. The duties of the Planning Commission shall include, but not be limited to the following:
1. Oversight or preparation and upkeep of the Comprehensive Plan.
  2. Oversight or preparation and upkeep of official controls, including, but not limited to, zoning and subdivision regulations.
  3. Site plan and building permit review and recommendation.
  4. Conditional and interim use permit review and recommendation.
  5. Review and action on appeals and variances (as the Board of Appeals and Adjustments).
  6. Subdivision review and recommendation.
  7. Other duties as requested by the Town Board.

**7.02 Appeals**

Any person aggrieved by any procedure or decision of the Zoning Administrator may appeal the

procedure or decision to the Board of Appeals and Adjustments. The Planning Commission shall act as the Board of Appeals and Adjustments. The procedure to hear an appeal of an alleged administrative error or misinterpretation shall include the following:

- A. The Township Clerk-Treasurer receives a written request and appropriate fees for appeal of an administration decision regarding this Ordinance.
- B. Publish a notice of the public hearing in the official newspaper and post notice of the public hearing at the Town Hall at least ten (10) days prior to the date of the hearing.
- C. Mail notice regarding an appeal which involves an interpretation in the boundaries of a zoning district to the owners of all property located wholly or partially within three hundred fifty (350) feet, as shown in the records of Dakota County Office. Failure to give notice or to give adequate notice shall not invalidate any proceeding, provided that a good faith attempt has been made to comply with the notice requirement.
- D. The Board of Appeals and Adjustments shall hear the appeal of the applicant and comments from any interested parties.
- E. The Board of Appeals and Adjustments shall make findings and a decision on the appeal.
- F. The appellant or any other party impacted by the decision of the Board of Appeals and Adjustments may appeal such decision to the Board of Supervisors by filing a written request with the Township Clerk-Treasurer within 30 days of the decision by the Board of Appeals and Adjustments. The Township Clerk-Treasurer shall provide notice to the appellant and all parties originally served by notice of the public hearing in subsection C. above of the date on which the Board of Supervisors will discuss the appeal.
- G. Action on such appeal by the Board of Supervisors shall be final.

### **7.03 Variances**

- A. The Board of Appeals and Adjustments may grant a variance from the literal provisions of this Ordinance in instances where strict enforcement would cause practical difficulties in the use of property under consideration and when it is demonstrated that such actions would be in harmony with the general purposes of this Ordinance and is consistent with the Empire Township Comprehensive Plan. "Practical difficulties" means:
  1. The property in question cannot be used in a reasonable manner under certain requirements of this Ordinance, and
  2. The plight of the landowner is due to circumstances unique to the property not created by the landowner, and
  3. The variance, if granted, would not alter the essential character of the locality, and
  4. Economic considerations alone do not constitute practical difficulties.

A practical difficulty also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. No variance shall be granted to declare a substandard lot buildable unless, in addition to meeting the above criteria, the applicant has exhausted all reasonable possibility of combining the lot with an adjacent vacant lot. No variance shall be granted to permit a use which is not allowed in the district in which the land is located.

- B. Applications. An application for a variance shall be filed with the Township Clerk-Treasurer



stating the exceptional conditions and the practical difficulties claimed along with the following information:

1. The fee required.
2. Evidence of ownership or an interest in the property.
3. A scaled map or drawing of the property which shows all lot lines, existing and proposed structures, property setback information, driveways and parking areas, any significant topographical features and mature trees, and any wetlands or floodplain areas.
4. Other information as may be required by the Township.

C. Procedure. The procedure to hear a petition for a variance shall include the following:

1. The Township Clerk-Treasurer receives a variance application and appropriate fees.
2. Publish a notice of the public hearing in the official newspaper and post notice of the public hearing at the Town Hall at least ten (10) days prior to the date of the hearing.
3. Mail notice to the owners of all property located wholly or partially within three hundred fifty (350) feet of the property, as shown in the records of Dakota County Office. Failure to give notice or to give adequate notice shall not invalidate any proceeding, provided that a good faith attempt has been made to comply with the notice requirement.
4. The Board of Appeals and Adjustments shall hear the variance petition of the applicant and comments from any interested parties.
5. The Board of Appeals and Adjustments shall make findings and a decision on the variance.
6. The applicant or any other party impacted by the decision of the Board of Appeals and Adjustments may appeal such decision to the Board of Supervisors by filing a written request with the Township Clerk-Treasurer within 30 days of the decision by the Board of Appeals and Adjustments. The Township Clerk-Treasurer shall provide notice to the applicant and all parties originally served by notice of the public hearing in subsection 3. above of the date on which the Board of Supervisors will discuss the appeal.
7. Action on such appeal of the decision of the Board of Appeals and Adjustments by the Board of Supervisors shall be final.

D. Findings. In making its decisions on a variance request, the Board of Appeals and Adjustments, and the Board of Supervisors upon any appeal, shall make the following minimum findings:

1. The applicant proposes to use the property in a reasonable manner.
2. The plight of the applicant is due to circumstances unique to the property not created by the applicant.
3. Granting the variance would be in harmony with the general purposes of this Ordinance.
4. Granting the variance would be consistent with the Empire Township Comprehensive Plan.
5. Granting the variance would not alter the essential character of the locality.

6. The decision to grant the variance is not based upon economic considerations alone.
  7. Granting the variance will not result in a use that is otherwise not allowed in the zoning district.
- E. A certified copy of the variance shall be recorded with the Dakota County Office of Property Taxation and Records.
- F. No re-application for a variance that has been denied shall be accepted for a period of twelve (12) months after denial. A variance that has been approved must be placed into effect within of twelve (12) months of approval or it shall become null and void, unless the Township extends the approval at its own discretion for a valid reason.

#### **7.04 Amendments to Zoning Ordinance**

- A. An amendment to this Ordinance may be initiated by the Planning Commission, the Town Board, or by application of a property owner or representative of the property owner. Such amendment shall be consistent with the intent and purpose of this Ordinance and the Comprehensive Plan. Proposed amendments that are inconsistent with the Comprehensive Plan shall be denied or may be postponed for action by the applicant until consideration and action on a corresponding amendment to the Comprehensive Plan has been completed.
- B. Applications. All petitions for amendments which are initiated by the owner of property shall be filed with the Township Clerk-Treasurer along with the following information:
1. The fee required.
  2. Evidence of ownership or an interest in the property.
  3. A written description of the proposed amendment.
  4. Other information as may be required by the Township.
- C. The procedure to amend this Ordinance shall include the following:
1. The Township Clerk-Treasurer receives an ordinance amendment application and required fees.
  2. Publish a notice of the public hearing in the official newspaper and post notice of the public hearing at the Town Hall at least ten (10) days prior to the date of the hearing.
  3. Mail notice of the amendment affecting any property rezoning to the owners of all property located wholly or partially within three hundred fifty (350) feet of the property, as shown in the records of Dakota County. Failure to give notice or to give adequate notice shall not invalidate any proceeding, provided that a good faith attempt has been made to comply with the notice requirement.
  4. The Planning Commission shall hear the amendment request of the applicant and comments from any interested parties.
  5. The Planning Commission shall make findings and a recommendation on the amendment to the Board of Supervisors.
  6. The Board of Supervisors shall review the recommendations of the Planning Commission, make findings, and make a decision on the amendment.

- D. No re-application for an amendment that has been denied shall be accepted for a period of twelve (12) months after denial. An amendment that has been approved must be placed into effect within of twelve (12) months of approval or it shall become null and void, unless the Township extends the approval at its own discretion for a valid reason.

### **7.05 Conditional Use Permits**

- A. Conditional uses are intended to allow uses that may be appropriate in certain zoning districts, provided specific conditions are placed upon the use to guarantee compatibility with other uses and to guarantee compliance with specific performance standards. It shall be unlawful to use any structure or land for any purpose requiring a conditional use permit in the zoning district in which the property is located without first obtaining a conditional use permit from the Township. Conditional use permits shall only be considered for uses identified as conditional uses within a particular zoning district.
- B. An application for a conditional use permit shall be filed with the Township Clerk-Treasurer and shall include the following:
1. The fee required.
  2. Evidence of ownership or an interest in the property.
  3. A scaled map or drawing of the property which shows all lot lines, existing and proposed structures, property setback information, driveways and parking areas, any significant topographical features and mature trees, and any wetlands or floodplain areas. See Section 4.08 of this Ordinance for detailed site plan review submittal requirements.
  4. Other information as may be required by the Township.
- C. The procedure to consider a conditional use permit shall include the following:
1. The Township Clerk-Treasurer receives a conditional use permit application and required fees.
  2. Publish a notice of the public hearing in the official newspaper and post notice of the public hearing at the Town Hall at least ten (10) days prior to the date of the hearing.
  3. Mail notice of the proposed conditional use to the owners of all property located wholly or partially within three hundred fifty (350) feet of the property, as shown in the records of Dakota County. Failure to give notice or to give adequate notice shall not invalidate any proceeding, provided that a good faith attempt has been made to comply with the notice requirement.
  4. The Planning Commission shall hear the conditional use permit request of the applicant and comments from any interested parties.
  5. The Planning Commission shall make findings and a recommendation on the conditional use permit to the Board of Supervisors.
  6. The Board of Supervisors shall review the recommendations of the Planning Commission, make findings, and make a decision on the conditional use.
- D. In the recommendations by the Planning Commission and action by the Board of Supervisors the following minimum findings shall be made regarding the conditional use:

1. The proposed use will not negatively impact the public health, safety and welfare.
  2. The proposed use is consistent with the Comprehensive Plan and this Ordinance.
  3. The proposed use can be adequately served by utilities and essential services, including fire and police protection.
  4. The proposed use will be harmonious with surrounding uses.
  5. The proposed use can be adequately served by the existing transportation system or mitigated effectively by the applicant.
  6. The proposed use will meet all relevant performance standards of this Ordinance.
  7. The potential for any impacts on adjacent properties or the environment can be mitigated by conditions of the permit.
  8. Activities within the proposed use will not create a public nuisance.
  9. The applicant agrees to the conditions the Township deems appropriate for issuance of the conditional use permit.
- E. The Planning Commission shall recommend and the Board of Supervisors shall adopt adequate conditions for any permit approved that implements necessary findings of this section and meets the requirements of this Ordinance.
- F. A conditional use that has been approved must be placed into effect within of twelve (12) months of approval or it shall become null and void, unless the Township extends the approval at its own discretion for a valid reason. No re-application for a conditional use that has been denied shall be accepted for a period of twelve (12) months after denial.
- G. A certified copy of the conditional use permit shall be recorded with the Dakota County Office of Property Taxation and Records.
- H. The Board of Supervisors may revoke a permit upon violation of any condition of the permit, any state or federal law, county regulation or any Township ordinance. Such revocation shall occur after written notice of the violation has been provided to the permittee and a 30-day period has lapsed without correction of the violation.
- I. The conditional use permit shall remain in effect for so long as the conditions agreed upon by the applicant are observed, and shall expire if normal operation of the use has been discontinued for twelve (12) or more months.

#### **7.06 Interim Use Permits**

- A. Interim uses are intended to allow uses that may be appropriate in certain zoning districts on a temporary basis, provided specific conditions are placed upon the use to guarantee compatibility with other uses and to guarantee compliance with specific performance standards. It shall be unlawful to use any structure or land for any purpose requiring an interim use permit in the zoning district in which the property is located without first obtaining an interim use permit from the Township. Interim use permits shall only be considered for uses identified as interim uses within a particular zoning district.
- B. An application for an interim use permit shall be filed with the Township Clerk-Treasurer and shall include the following:

1. The fee required.
  2. Evidence of ownership or an interest in the property.
  3. A scaled map or drawing of the property which shows all lot lines, existing and proposed structures, property setback information, driveways and parking areas, any significant topographical features and mature trees, and any wetlands or floodplain areas. See Section 4.08 of this Ordinance for detailed site plan review submittal requirements.
  4. Other information as may be required by the Township.
- C. The procedure to consider an interim use permit shall include the following:
1. The Township Clerk-Treasurer receives an interim use permit application and required fees.
  2. Publish a notice of the public hearing in the official newspaper and post notice of the public hearing at the Town Hall at least ten (10) days prior to the date of the hearing.
  3. Mail notice of the proposed interim use to the owners of all property located wholly or partially within three hundred fifty (350) feet of the property, as shown in the records of Dakota County. Failure to give notice or to give adequate notice shall not invalidate any proceeding, provided that a good faith attempt has been made to comply with the notice requirement.
  4. The Planning Commission shall hear the interim use permit request of the applicant and comments from any interested parties.
  5. The Planning Commission shall make findings and a recommendation on the interim use permit to the Board of Supervisors.
  6. The Board of Supervisors shall review the recommendations of the Planning Commission, make findings, and make a decision on the interim use permit.
- D. In the recommendations by the Planning Commission and action by the Board of Supervisors the following minimum findings shall be made regarding the interim use:
1. The proposed use is temporary in nature.
  2. The proposed use will not negatively impact the public health, safety and welfare.
  3. The proposed use is consistent with the Comprehensive Plan and this Ordinance.
  4. The proposed use can be adequately served by utilities and essential services, including fire and police protection.
  5. The proposed use will be harmonious with surrounding uses.
  6. The proposed use can be adequately served by the existing transportation system or mitigated effectively by the applicant.
  7. The proposed use will meet all relevant performance standards of this Ordinance.
  8. The potential for any impacts on adjacent properties or the environment can be fully mitigated by conditions of the permit.
  9. Activities within proposed use will not create a public nuisance.

10. The applicant agrees to the conditions the Township deems appropriate for issuance of the interim use permit.
- E. The Planning Commission shall recommend and the Board of Supervisors shall adopt adequate conditions for any permit approved that implements necessary findings of this section and meets the requirements of this Ordinance.
- F. An interim use that has been approved must be placed into effect within of twelve (12) months of approval or it shall become null and void, unless the Township extends the approval at its own discretion for a valid reason. No re-application for an interim use that has been denied shall be accepted for a period of twelve (12) months after denial.
- G. An interim use permit shall not be assigned to another party, unless approved in writing by the Board of Supervisors.
- H. All interim use permits shall terminate on the occurrence of any of the following events, whichever occurs first:
1. The termination date established by the Board of Supervisors and stated in the interim use permit.
  2. A violation of the conditions under which the interim use permit was issued.
  3. A change in this ordinance that causes the use to become nonconforming. If a lawfully existing interim use is rendered nonconforming as a result of a change in this Ordinance, the use may continue until it is terminated in accordance with the terms of the interim use permit issued for the use, or until the use is discontinued for at least twelve (12) months, whichever occurs first.
  4. The use has been discontinued for twelve (12) or more months.
- I. Upon expiration of an interim use permit, the applicant may reapply for a renewal of the interim use permit. Information required for consideration of a renewal shall be at the discretion of the Township. Except as may be prescribed in other sections of this Ordinance, the Town Board shall have discretion to determine whether a public hearing is appropriate and required for consideration of a renewal of an interim use permit. Prior granting of an interim use permit does give an applicant any vested right to renewal.

### **7.07 Applications and Fees**

Applications for all permits and actions required in this Ordinance may be obtained by contacting the Township Clerk-Treasurer. The fees required for all permits and actions are established by separate Township ordinance.

### **7.08 Responsibility**

The issuance of a permit and compliance with the conditions thereof or other provisions of this Ordinance shall not relieve any person from any other responsibility imposed by other law; nor relieve any person from any other responsibility for any damages caused to person or property; nor shall the issuance of any permit serve to impose any liability on the Township of Empire or its officers or employees for injury or damage to persons or property. A permit issued pursuant to this Ordinance does not relieve the permittee of the responsibility for securing and complying with any other permit which may be required by any other law, ordinance, or regulation.

**7.09 Enforcement and Penalties**

- A. **Administrative Remedy.** Whenever any activity is being done contrary to the provisions of this Ordinance, the work shall be stopped when written notice is served on any persons engaged in the doing or causing such work to be done or when such notice is posted at the site of the activity. The Zoning Administrator or Building Official may, in writing, suspend a permit for violation of any provisions of this Ordinance.
- B. **Civil Remedy.** In the event of a violation of this Ordinance, the Township may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct or abate such violations or threatened violations, and the Township Attorney may institute such action.
- C. **Criminal Remedy.** Any person, firm or corporation who shall violate any of the provisions of this Ordinance or who shall fail to comply with any of the provisions of this Ordinance or who shall make any false statement in any document required to be submitted under the provisions of this Ordinance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by law. Each day that a violation continues shall constitute a separate offense.

**7.10 Separability**

The various sections, subsections, paragraphs, sentences, phrases, and words in this Ordinance are declared separable. If any word, phrase, sentence, paragraph, subsection, or section of this Ordinance is found by a court of competent jurisdiction to be invalid, such a finding or ruling shall not affect the remaining portions of this Ordinance.

**7.11 Repeal**

Ordinance No. 410 Empire Township Zoning Ordinance and all amendments thereto are hereby repealed.

**7.12 Effective Date**

This Ordinance was adopted by the Empire Township Board of Supervisors this 9<sup>th</sup> day of August, 2016 and shall be effective upon publication according to law.

**ATTEST:**

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Terry L. Holmes, Chair

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Kathleen B. Krippner, Clerk-Treasurer

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