

# **HAMPTON TOWNSHIP**

# **ZONING ORDINANCE**

## **Ordinance No. 2002**

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**Appendix 1 Application for Consideration of Planning Request**

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## INTRODUCTION

This zoning ordinance is designed to implement the intents and purposes of the Hampton Township Comprehensive Plan.

The zoning districts are based upon the Comprehensive Plan which has the purpose of protecting the public health, safety, convenience, and general welfare. Before any amendment to the boundary lines of the established zoning districts is made, any necessary amendments must first be made to the Comprehensive Plan.

The zoning ordinance proposed here attempts to provide a number of tools to Hampton Township while at the same time being simple enough to be administered by part-time officials. As a result, there may arise in the future some problem which is not covered in this Ordinance. If this occurs, sections can be added to deal with those areas.

There are several reasons for administering a zoning ordinance in a community. An ordinance can guide the development of a township in such a way that land uses are compatible and public facilities can be provided efficiently. This is particularly important in a community where financial resources are limited.

Secondly, a zoning ordinance can protect an individual's property rights by ensuring that development on adjacent lots will not cause harm to his property value.

This Ordinance achieves the two objectives listed above through two main types of regulations. The first type separates like and compatible land uses into zones. This eliminates undesirable land use "mixes," such as a noisy industrial use in a residential area.

In this particular Zoning Ordinance, three zones are created: Agricultural Preservation (AP), Shoreland Overlay (SL), and Floodplain Overlay (FP). Unlike some other ordinances, these zones allow several different types of uses in each. For example, single family residences, and many compatible non-farm uses are allowed in the Agricultural Zone. This makes this Ordinance quite flexible while still effectively separating incompatible uses.

The second type of control used in this Zoning Ordinance regulates the uses in each district. The controls include requirements for a maximum density of residential units, the front, side, and rear setbacks of buildings, the maximum height of buildings, and requirements having to do with maintenance, screening, driveways, drainage, and so on. These regulations encourage a high standard of residential, commercial, and agricultural development, in addition to assisting in making land uses compatible.

The enforcement of the Zoning Ordinance is somewhat difficult in a small community because of the lack of full-time staff. However, this Ordinance should be able to be enforced without too much trouble by the Planning Commission with a little help from the Township Clerk and Town Board.

**PREAMBLE**

Pursuant to the authority conferred by the State of Minnesota in Section 462.357, Laws of 1965 as amended, and for the purpose of:

1. Promoting and protecting the public health, safety, and general welfare of the inhabitants of Hampton Township;
2. Protecting and conserving the character, social, and economic stability of agricultural, residential, commercial, industrial, and other areas;
3. Securing the most appropriate use of land;
4. Preventing the overcrowding of the land and undue congestion of population;
5. Providing adequate light, air and reasonable access; and
6. Facilitating adequate and economical provision of transportation, water supply, and sewage treatment.

The Township of Hampton Ordains:

This Ordinance which shall be known and cited as the Hampton Township Zoning Ordinance, Number 2002 (herein referred to as “this Ordinance”), an ordinance repealing Ordinance Number 1982 in its entirety, setting minimum and maximum standards for the height and size of buildings, the size of yards, courts, and other open spaces, the density of population, the location and use of buildings and land for trade, commerce, industry, residence, and other purposes, creating districts for said purposes and establishing the boundaries of such districts, defining certain terms used herein, providing for enforcement and administration, and imposing penalties for the violation of this Ordinance.

## ARTICLE I

### GENERAL PROVISIONS

#### Section 101: Authority

This Ordinance is adopted pursuant to the Town Board's authority under Minnesota Statutes, sections 462.351 to 462.364 and such other law as may apply. This Ordinance does not rely on the authority provided in Minnesota Statutes, sections 366.10 to 366.181 and the procedures and requirements of those sections do not apply to this Ordinance.

#### Section 102: Definitions

For the purposes of this Ordinance and unless indicated otherwise by context, certain words contained herein have the following meanings. Other words not included in this Article shall have the meanings customarily associated with them.

1. Accessory Building: A subordinate structure that is detached from, but located on the same parcel as, the principal structure, the use of which is incidental to and commonly associated with the principal structure. This term includes, but is not limited to, garages, sheds, and pole buildings. An accessory building may also constitute an agricultural building, if it satisfies the statutory criteria of an agricultural building.
2. Accessory Use: A use that is customarily incidental, subordinate, and related to the allowed principal use occurring on the same parcel.
3. Agricultural Building: Shall have the meaning given it in Minnesota Statutes, section 326B.103, subdivision 3, as it may be amended. Without modifying the statutory definition, no building shall be considered an agricultural building unless it satisfies all three of the following statutory criteria:
  - a. It is located on agricultural land as determined by the local assessor;
  - b. It is designed, constructed, and used to house farm implements, livestock, or agricultural products; and
  - c. It is used by the owner, lessee, and sublessee of the building and their family and employees engaged in the pickup or delivery of agricultural products.
4. Agricultural Products: Those products grown or produced on a property as part of an agricultural use/operation, nursery, or greenhouse such as vegetables, fruits, dairy products, eggs, grains, meat, poultry, fish, honey, hay, bedding plants, flowers, plant nursery stock, fur, or wool. The term includes ancillary products

such as crafts, knickknacks, and other similar products that may be sold in retail along with the other agricultural products. The term does not include agricultural equipment or machinery.

5. Agricultural Retail Sales: The direct, on-site, retail sale of agricultural products to customers as an accessory use to an agricultural use/operation, nursery, or greenhouse.
6. Agricultural Service Establishments: Establishments operated primarily to provide agricultural, animal husbandry, or horticultural-related support services on a fee or contractual basis. Agricultural service establishments do not include any industrial, intensive, or large-scale commercial operations including, but not limited to the following: milling, distilling, fermenting, brewing, canning, packaging, processing facilities, livestock slaughtering facilities, stockyards, farm equipment manufacturing, and such other uses not involving the direct provision of services to support farming activities, except to the extent these operations are conducted as an incidental part of the farming activities being conducted on the same property.
7. Agricultural Use/Operation: The operation of a farm involving the following types of activities:
  - a. The cultivation, conservation, and tillage of the soil;
  - b. The storage, use of, and spreading of commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and where permitted by local and state regulations, other lawful soil amendments;
  - c. The use of and application of agricultural chemicals;
  - d. The raising of livestock, which shall include dairy cows and the production of milk, beef animals, swine, sheep, goats, as well as domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, yaks, elk, fallow deer, red deer, and reindeer;
  - e. The breeding, raising, and riding of equines;
  - f. The commercial raising and harvesting of fresh water fish or other aquaculture products;
  - g. The raising and breeding of poultry or game birds;
  - h. The raising of bees;
  - i. The raising or breeding of domesticated strains of fur-bearing animals;

- j. The production of greenhouse crops;
- k. The production, cultivation, growing, harvesting, and sale of any agricultural, floricultural, forestry, or horticultural crops, including berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, flowers, seeds, grasses, nursery stock, sod, trees, and tree products. Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, compost, or any other plant that can be legally grown and harvested extensively for profit or subsistence; and
- l. Any practice on the farm incident to, or in conjunction with such farming operations, which includes the following activities:
  - i. The transportation of farm supplies and materials;
  - ii. The transportation of farm workers;
  - iii. Forestry or lumbering operations;
  - iv. The marketing or selling at wholesale or retail, on-site and off-site, where permitted by local regulations, any products from the farm;
  - v. Irrigation of growing crops from private water supplies or public water supplies where not prohibited by state or local regulations;
  - vi. The use of dogs for herding, working, or guarding livestock; and
  - vii. The production and storage of compost and the materials necessary to produce compost, whether such materials originate, in whole or in part, from operations of the farm.
- 8. Agriculture, Animal: The use of land for Animal Feedlots or Animal Waste Storage Facility.
- 9. Agriculture, Crop: The use of land for the production of row crops, field crops, tree crops, timber, bees, apiary products, and fur-bearing animals.
- 10. Animal: Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry), or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as domestic, farm, and non-domestic.
- 11. Animal, Domestic: Any animal of a species commonly accepted as domesticated household pets. Unless otherwise defined, such animals shall include dogs, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous, and non-constricting reptiles or amphibians, and other similar animals.



12. Animal, Farm: Any animal of a species commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, such animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, llamas, ostriches, emus, burros, donkeys, and other animals associated with a farm, ranch, or stable.
13. Animal Feedlot: A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals 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. Open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered animal feedlots, but pastures shall not be considered animal feedlots.
14. Animal, Non-Domestic: Any animal of a species commonly considered to be naturally wild and not naturally trained or domesticated, or of a species commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:
  - a. Any member of the large cat family (family felidae), including lions, tigers, cougars, bobcats, leopards, and jaguars.
  - b. Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.
  - c. Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.
  - d. Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.
  - e. Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles, and alligators.
  - f. Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this definition, including but not limited to bears, deer, monkeys, and game fish.
15. Animal Unit: A unit of measure used to compare difference in the production of animal manures that employs as a standard the amount of manure produced on a

regular basis by a slaughter steer or heifer. For purposes of this Ordinance, the following equivalents shall apply:

	Number of Animal Units
one calf (less than 500 lbs.)	0.2
one youngstock (500-1,000 lbs.)	0.7
one heifer	1.0
one cow	1.4
 Beef	
one calf (less than 500 lbs.)	0.2
one cow/calf unit	1.2
one cow, slaughter steer, or heifer	1.0
 Swine	
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
 Turkeys	
one pullet	0.005
one hen or tom	0.018
 Chickens	
one pullet	0.002
one layer or broiler	0.01
 Horses	
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 1000 pounds.

16. Animal Waste Storage Facility: A structure where lot runoff, manure effluent, or other diluted animal waste is stored or treated, including earthen manure storage basins, earthen lagoons, and concrete or glass-lined storage.

17. At Large Animal: The condition of an animal when it is off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, or chain, or otherwise restrained or confined.
18. 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.
19. Berm: A shelf or raised flat area that breaks the continuity of the slope of the land.
20. Best Management Practices (BMPs): The Minnesota Pollution Control Agency's, the University of Minnesota's, the Minnesota Department of Natural Resources', or the Minnesota Board of Water and Soil Resources' best management practices manuals.
21. Building: Any structure, either temporary or permanent, having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal, or property of any kind, including tents, awnings or vehicle situated on private property and used for purposes of a building.
22. Building-Integrated Solar Energy System: An active solar energy system that is an integral part of a principal or accessory structure, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated solar energy systems include, but are not limited to, photovoltaic or hot water solar energy systems that are contained within the building's roofing materials, windows, skylights, or awnings.
23. Bulk Storage, Liquid: The storage of flammable liquid in one or more storage tanks having a cumulative capacity in excess of ten thousand (10,000) gallons on a single lot. The capacity of storage tanks on adjoining lots shall be included in the determining the cumulative if they are used as part of a single business or agricultural operation. The storage of gasses that are in a liquid state during storage are included in this definition.
24. Commercial Ground-Mounted Solar Energy System: A solar energy system that is mounted on the ground and established for the primary purpose of generating electricity and selling it to a third party such as, but not limited to, an electric utility company.
25. Commercial Use: See "Retail Commercial Use" and "Wholesale Commercial Use."
26. Conditional Use: Any use of land which is not a permitted use, but which may be allowed if special conditions can be met so as to render the conditional use compatible with the surrounding land uses and not be contrary to the intents of

this Ordinance. A conditional use requires a special permit to be granted by the Town Board following a public hearing.

27. 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.
28. Developer: Any person, firm, or corporation engaging in or intending to engage in construction, demolition, grading, or other land disturbing activity.
29. Dog: Any member of the canine species, either male or female, commonly accepted as a domesticated household pet, and other domesticated animals of a dog kind.
30. Drainage System: Any natural or artificial means used to drain or store water, including but not limited to streams, rivers, creeks, and ditches, including structures such as culverts, drainage tiles, and dams, and including water storage basins such as lakes and ponds, either natural or manmade.
31. Driveway: A private road, drive, or way constructed for use by motor vehicles to provide access from a public road to a parking structure or parking area on private property, or to provide access a field, lot or parcel. The term includes the entire length of the drive on the property including, but not limited to, the portion of the drive located within the public right-of-way and which is referred to herein as the driveway access.
32. Driveway Access: The portion of a driveway located within a public right-of-way and which serves to connect the portion of the driveway located on private property to the surface of the public road. A driveway access is sometimes referred to as, and the term includes, a driveway approach, an access drive, a field approach, or a field access.
33. Duplex: A detached structure containing two attached dwelling units; the structure is designed or modified for occupancy by two families.
34. Equipment Storage and Maintenance: An establishment engaged in the repair, servicing, or storage of agricultural or related equipment for a fee. This term does not include the sales of such equipment or automotive repair, servicing, or sales.
35. Erosion: Any process that moves soil along or away from the surface of the land by the action of water, wind, ice, or gravity.
36. Essential Services: Underground or overhead gas, electrical, steam, or water distribution system, collection communication supply, or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, street signs, hydrants, or other similar equipment and

accessories in conjunction therewith but not including structures or transmission services.

37. Excessive Erosion: The condition when either or both of the following conditions exist: (a) estimated average annual rate of soil erosion for a particular parcel of land resulting from sheet and rill erosion or wind erosion is greater than the soil loss tolerance for any of the soil series comprising that particular parcel of land, or (b) evidence of active gully erosion.
38. Exterior Storage: The storage of goods, materials, equipment, products and similar items not fully enclosed within a structure.
39. Family: An individual, or two or more persons related by blood, marriage, or adoption living together, or a group of not more than five persons who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit.
40. Floor Area: The sum of the gross horizontal area of the several floors of a building or portion thereof devoted to a particular use. However, the floor area calculation shall not include basement floor area.
41. Frontage: Has the following meaning, depending on the context in which the term is used. Only a public right-of-way that is regularly maintained by the public road authority and that provides direct access to the property via an approach approved by the public road authority may be used to determine frontage.
  - a. Frontage Line: For determining the minimum lot width and depth, the frontage line is the length of the property line along an adjacent public right-of-way that provides direct access to the property and that is regularly maintained by the public road authority.
  - b. Right-of-way: For determining minimum frontage on a public right-of-way for a substandard lot, the frontage is measured along an adjacent public right-of-way that is regularly maintained by the public road authority.
42. Greenhouse: A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for sale. The term does not include nurseries.
43. Ground-Mounted Solar Energy System: A freestanding solar energy system mounted to the ground by the use of stabilizers or similar apparatuses.

44. Historic Site: Structure or body of land or water of historic archeological, paleontological, or architectural content or value which has been designated as an historic site on the Federal Register of Historical Landmarks, by the Minnesota Historical Society, or by resolution of a local governmental unit.
45. Industry: All manufacturing, compounding, processing, packaging, treatment, or assembly of products and materials.
46. Institutional Uses: The use of land under public or semi-public ownership that provides a benefit or service to the public. These uses shall include but not be limited to schools, hospitals, churches, cemeteries, and fraternal organization meeting places.
47. Interim Use: A temporary use which is not a permitted use or conditional use and which requires a special permit to be granted according to certain requirements and procedures outlined in this Ordinance. A use is eligible in a zoning district as an interim use only if it is listed as such within that zoning district.
48. Junk Yard: Any open area of any lot or parcel where waste or discarded or salvaged materials are bought, sold, exchanged, baled, 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 uses established entirely within enclosed buildings. It does not include sanitary landfills that are licensed by Dakota County and meet all the requirements of the Dakota County Solid Waste Ordinance.
49. Land Disturbing Activities: Any change of the land surface including but not limited to removing vegetation cover, excavating, filling, and grading within Hampton Township.
50. Lateral Conveyors: Any system that provides drainage for local areas that do not have natural or artificial water storage or retention areas or natural channels. Lateral conveyors outlet into natural or artificial water storage or retention areas or outlet directly into outflow conveyors.
51. Lot: A parcel or portion of land in a subdivision or plat of land separated from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof.
52. Lot Area: The area of a lot in a horizontal plane bounded by the lot lines.
53. Lot, Corner: A lot situated at the junction of and abutting on two or more intersecting streets, the interior angle of the intersection being less than one hundred thirty-five degrees.

54. Lot Depth: The mean horizontal distance between the front lot line and the rear lot line of a lot.
55. Lot Line: The property line bounding a lot except that where any portion of a lot extends into the public right-of-way, the line of such public right-of-way shall be the lot line for applying this Ordinance.
56. Lot of Record: Any lot which is one unit of a plat heretofore duly approved and filed, one unit of an Auditor's Subdivision or a Registered Land Survey, or a parcel of land not so platted, subdivided, or registered but for which a Contract for Deed, Auditor's Subdivision, or Registered Land Survey has been recorded in the office of the Register of Deeds or Registrar of Titles for Dakota County, Minnesota, prior to April 21, 1982.
57. Lot, Through: A lot which has a pair of opposite lot lines at two 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.
58. Lot Width: The maximum horizontal distance between the side lot lines of a lot.
59. Mineral Extraction: The excavation, crushing, screening, blending, stockpiling, and removal of sand, gravel, rock, clay, and other non-metallic minerals from the ground.
60. Mobile Home: A factory-built structure equipped with the necessary service connections and made so as to be readily movable as a unit of its own running gear and designed to be a structure able to be relocated and used for any occupancy without a permanent foundation. The phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the mobile home placed thereon will be moved from time to time at the convenience of the owner.
61. Mobile Home Park: Any premises larger than ten (10) acres on which lots are rented for the placement of at least ten (10) non-transient occupied mobile homes.
62. Motel/Hotel: A structure or group of structures used primarily for the temporary residence of motorists or travelers.
63. Multiple Family Dwelling/Apartment Building: Three or more dwelling units in one structure.
64. Natural and Artificial Water Storage and Retention Areas: Any natural or artificial lake, pond, surface water storage area, or wetland that has the potential to temporarily retain surface water runoff for the purpose of runoff water management or water quality management.

65. Nonconforming Use: See “Use, Nonconforming.”
66. Noxious Weed: Any plant whose presence is deleterious to the agricultural community as determined by the County weed inspector.
67. Nursery: An area where trees, shrubs, or other plant materials are grown, propagated, or stored for sale.
68. Nutrient Management Plan: A plan that provides procedures and applications rates, and identifies crop nutrient requirements that are based upon project crop yields, soil fertility results, and manure nutrient availability. All guidelines are based upon University of Minnesota guidelines for best management practices.
69. Off-Site Impacts: Any observable detrimental effect, damage, or result to adjoining lands, bodies of water, watercourses, wetlands, or the atmosphere due to excessive erosion and sedimentation.
70. Off-Site Sign: Any sign not located on the lot of the use it advertises.
71. On-Site Sign: Any sign located on the lot of the use it advertises.
72. Outflow Conveyors: Any system, including but not limited to streams and other natural channels, that forms the outlet for a natural or artificial water storage or retention area of any landlocked depression where the accumulated runoff from extreme storm events would pose risk of injury or property damage.
73. Owner, Animal: Any person or persons, firm, association, or corporation owning, keeping, or harboring an animal.
74. Parcel: A lawfully established lot or piece of real estate recorded in the office of the county recorder or registrar of titles that has a single county property identification number.
75. Principal Structure or Use: 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.
76. Public Park: An area owned by the Township or Dakota County and specifically set aside, designated, and maintained as a public park.
77. Quarter-Quarter Section: An approximately 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.
78. Quarter and Quarter-Quarter Section: A division of a section of land according to the rules of the original United States Government Public Land Surveyor.



79. Recreation, Commercial: A privately owned business offering recreational facilities, services, or equipment for a fee, including but not limited to private golf courses, theaters, bowling alleys, boat launches, etc.
80. Recreation, Public: Includes all uses and facilities such as tennis courts, ball fields, picnic areas, and the like that are commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a unit of government, for the purpose of providing recreation.
81. Registered Animal Feedlot: An active or inactive animal feedlot with a specified designated maximum number of animals units that is registered with the Town Board and recorded with the County Feedlot Officer.
82. Release Permit: A permit issued by the Sheriff's Department for the release of any animal that has been impounded. A release permit may be obtained upon payment of a release fee in accordance with the fee schedule, below, a regular license fee if the animal is unlicensed and license is required, and any maintenance costs incurred in capturing and impounding the animal. The release fee shall be as established from time to time by the Town Board. For the purpose of a release permit, any change in the registered ownership of an animal subsequent to its impoundment and release shall reset that animal's impoundment count to the beginning of the fee schedule.
83. Residential Ground-Mounted Solar Energy System: A solar energy system mounted on the ground and established for the primary purpose of meeting all or a part of the electric energy needs of a single family dwelling and accessory buildings on the same property.
84. Retail Commercial Use: Any use of land and incidental structures used for the display and sale of goods and services including eating and drinking establishments.
85. Roof-Mounted Solar Energy System: A solar energy system that is mounted to the roof using brackets, stands or other apparatuses.
86. Sediment: The solid mineral or organic material that is in suspension, is being transported, or has been moved from its original location by erosion and has been deposited at another location.
87. Sedimentation: The process of depositing sediment or that which has resulted in the deposition of sediment.
88. Setback: The minimum horizontal distance between a structure and a road, highway, or lot line as established in this Ordinance.

89. Sewage Sludge: The organic and inorganic residue that settles on the bottom of sedimentation tanks during the treatment of sewage.
90. Single Family Dwelling: A detached, permanent structure designed for habitation by human beings, designed for and occupied by one family, and not including motels/hotels.
91. Single Family Dwelling Occupation: Any gainful occupation or profession engaged in by the occupant of a dwelling when carried on within that dwelling unit, but not within an accessory structure. Entrance to the single family dwelling occupation is gained from within the structure. Additional performance standards for the single family dwelling occupation may be required by the Planning Commission.
92. Soil Loss Tolerance: The maximum average annual rate of soil loss from sheet and rill erosion or wind erosion, expressed in tons per acre per year, that is allowed in order to indefinitely sustain the productive capacity of soil to produce food and fiber.
93. Solar Energy System (SES): A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation, or water heating.
94. Spill Response Plan: A Plan that establishes procedures and actions required to be carried out in the event of a spill or release of hazardous materials, including notification of the Minnesota Duty Officer and Dakota County Feedlot Officer.
95. Structural Alteration: Any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders, or foundations.
96. Structure: Anything constructed, the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground. This definition does not include irrigation systems.
97. Substandard Lot: A lot of record which does not meet the minimum lot area, structure setbacks, or other dimensional standards of this Ordinance.
98. Swimming Pool: Any enclosure above or below grade, having a water depth greater than 18 inches, and having a water surface area in excess of 100 square feet, which shall be used or designed for swimming or wading purposes by anyone.
99. Use, Nonconforming: A use of land, building, or structure lawfully existing at the time of adoption of this Ordinance which does not comply with all the regulations

of this Ordinance; or any use of land, building, or structure lawfully existing prior to the adoption of an amendment which would not comply with all of the regulations.

100. 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.
101. Utility Buildings and Structures: A building or structure associated with a private or public utility used to house or store utility equipment or facilities. This term does not include utility structures or facilities lawfully located within a public right-of-way.
102. Variance: A modification or variation of the provisions of this Ordinance where the applicant establishes that there are practical difficulties in strictly complying with the Ordinance because of circumstances unique to the parcel or property under consideration and that are not created by the owner and the variance, if granted, will be consistent with the comprehensive plan, will not allow a use prohibited within the zoning district, and will not alter the essential character of the locality.
103. Warehouse: An enclosed building used principally for the storage of equipment and materials and including packing and crating.
104. Waste Storage Pit: Any enclosure above or below grade, having a potential depth greater than 18 inches, and having a potential surface area in excess of 100 square feet which shall be used or designed for the temporary or permanent storage of liquid animal manure, liquid animal feed, or similar materials.
105. Watershed Management Organization (WMO): A watershed management organization as defined by Minnesota Statutes Section 103B.205.
106. Wholesale Commercial Use: Any use of land or incidental structure used principally for the sale and storage of equipment and materials.
107. Zoning Administrator: That individual designated by Hampton Township to administer this Ordinance.
108. Zoning District: An area or areas within the limits of the Hampton Township for which the regulations and requirements governing land use are uniform.

### **Section 103: Applications**

- A. Form. All applications must be on forms provided by the Township. Any requests not submitted on an approved Township form shall not be considered an

application for the purposes of this Ordinance, or Minnesota Statutes, section 15.99, and shall be rejected.

- B. Rejected; Denial. An application shall be immediately rejected if it is not accompanied by the required application fee and escrow, if required. An application shall also be rejected if it is for property on which there is one or more identified, but unresolved, zoning violations. If the Township identifies the zoning violation after an application has been received, but before final action on the application has been taken, the existence of the violation shall constitute a sufficient basis for the Township to deny the application unless the purpose of the application is to correct the violation. A lawfully established nonconforming use does not constitute a zoning violation for the purposes of this section.
- C. Incomplete. If an application is incomplete, the Township will notify the applicant in writing within 15 business days of receipt identifying the additional information needed in order to make the application complete. The Township will not process the application until the required additional information is submitted and the 60-day review period shall not begin to run until all such additional information is submitted.
- D. Processing Timelines. The Township will process complete applications for a zoning request within the time period established in Minnesota Statutes, section 15.99 and, with respect to subdivision requests, the time periods established in Minnesota Statutes, section 462.358, subdivision 3b. An applicant may request an extension of the applicable review period by submitting a written request for an extension to the Township. The Town shall determine whether to grant an extension request and may limit the period of an approved extension. The approval of an applicant extension has the effect of stopping the clock on the review period for the entire time of the extension. Once the extension period ends, the clock resumes and the Township has the full remaining review period and any allowed extensions to make a final decision on the request. The Township may extend the initial 60 day review period by up to an additional 60 days by providing the applicant a written notice of extension before the end of the initial 60 day period. The notice must state the reasons for the extension and its anticipated length.

#### **Section 104. Unpaid Fees**

Any application for a zoning request related to property in which there are delinquent property taxes, special assessments, penalties, interest, or past due public utility fees shall not be considered complete and shall not be processed until the owner certifies to the Township, with adequate supporting documentation, that all such delinquent or past due amounts, interest, and penalties have been paid in full. Furthermore, any person that submits an application for a zoning request that owes the Township for past zoning related fees or costs, or if the application relates to property on which there are zoning related fees or costs owed to the Township, the application shall be deemed incomplete

and shall not be accepted or processed until all such delinquent or past due amounts have been paid in full to the Township. The Township will not issue a permit or variance to any of the above described properties until all past due amounts, penalties, and interest has been paid in full. The Township may collect any unpaid zoning related fees, charges, or costs owed to it, all of which shall constitute a service charge, by certifying the amount to the County Auditor pursuant to Minnesota Statutes, section 366.012 for collection together with the property taxes levied against any real property, the person, or entity owing the amount owns in the State. The Township will provide the property owner written notice of its intent to certify the amount on or before September 15. The amounts so certified to the County shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes. The Township may also exercise any other authority available to it under law to collect any unpaid zoning related fees, charges, or costs owed to it.

## ARTICLE II

### ESTABLISHMENT OF ZONING DISTRICTS

#### Section 201: Establishment of Zoning Districts

The following zoning districts are provided in order to promote and encourage the efficient, economic development of land, buildings, and all usable structures. The urban Township of Hampton is hereby divided into the following districts which shall be known by the following respective symbols and names:

- AP: Agricultural Preservation District
- SL: Shoreland Overlay District
- FP: Floodplain Overlay District

#### Section 202: Zoning Map

The areas comprising these zoning districts and the boundaries of said districts as shown upon the map attached hereto and made a part of this Ordinance, being designated as the Zoning Map of the Township of Hampton, with all proper notations, references, and other information shown thereon.

#### Section 203: 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 said map upon request of any person. Any person aggrieved by any such interpretation may appeal such interpretation to the Hampton Town Board. The Zoning Administrator and the Hampton Town Board, in interpreting the zoning map or deciding any appeal, shall apply to 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, water courses, or elevational contour lines, 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 constructed 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, shall be determined by the use of the map scale shown thereon.

- D. 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 reasonable manner, considering the history of uses of property and the history of zoning ordinances and amendments in Hampton Township, as well as all other relevant facts.

**ARTICLE III**  
**ZONING DISTRICTS**

**Section 301: District AP - Agricultural Preservation**

A. Purpose

The Agricultural Preservation District is established for the purpose of protecting viable agricultural lands from non-farm influence, retaining valuable areas for conservation purposes, preventing scattered non-farm growth, preserving a secure agricultural economy, minimizing government services and expenditures, and preserving other natural resources of the community.

B. Permitted Uses

1. Agricultural Uses, including:
  - a. Crop Agriculture
  - b. Animal Agriculture, subject to the standards and requirements of Section 613 of this Ordinance.
2. Single Family Dwellings at a maximum density of one single family dwelling per quarter/quarter section.
3. Forestry and Nurseries
4. Historic Sites
5. Single Family Dwelling Occupations
6. Building integrated solar energy systems and roof-mounted solar energy systems, and residential ground-mounted solar energy systems.
7. Greenhouses

C. Accessory Uses

1. Essential Services
2. Fences
3. Landscaping Features



4. Machinery, structures, or buildings incidental to but necessary for the conduct of agricultural operations or other permitted uses
5. Accessory Buildings
6. Agricultural Retail Sales
7. Accessory Uses

D. Conditional Uses

1. Agricultural Service Establishments
2. Equipment Storage and Maintenance
3. Utility Buildings and Structures
4. Public Parks and Recreation
5. Commercial ground mounted solar energy systems.

E. Interim Uses

1. Mineral Extraction
2. Commercial Wireless Telecommunications Services Towers and Antennae

F. Prohibited Uses and Structures

All other uses and structures not specifically allowed as permitted or conditional uses, or that cannot be considered accessory uses, shall be prohibited in the AP Agricultural Preservation District.

G. General Regulations

Additional requirements for parking, signs, sewage systems, and area and height regulations, including the one residence per quarter-quarter section maximum density requirement, are set forth in Articles IV through VII.

**Section 302: District SL – Shoreland Overlay**

A. Purpose

The SL District is intended to apply to properties that lie within shoreland areas, which for the purposes of this Ordinance shall be construed to be the area within 1,000 feet of the South Branch of the Vermillion River. Such properties require

special regulations for the minimum protection of the quality of the shoreland area and water course and protection of the health and safety of shoreland residents.

B. Permitted Uses

Permitted uses in the Shoreland Overlay District shall be the same as the permitted uses allowed within the zoning district underlying the SL District. Consult the Zoning Map to determine which district provisions apply to the parcel(s) being considered.

C. Accessory Uses

Accessory uses in the Shoreland Overlay District shall be the same as the accessory uses allowed within the zoning district underlying the SL District. Consult the Zoning Map to determine which district provisions apply to the parcel(s) being considered.

D. Conditional Uses

Conditional uses in the Shoreland Overlay District shall be the same as the conditional uses allowed within the zoning district underlying the SL District. Consult the Zoning Map to determine which district provisions apply to the parcel(s) being considered.

E. Prohibited Uses and Structures

All other uses and structures not specifically allowed as permitted or conditional uses, or that cannot be considered accessory uses, shall be prohibited in the SL Shoreland Overlay District.

F. General Regulations

Requirements for signs, sewage treatment, area and height provisions, and other regulations are set forth in Articles IV through VII.

G. County Regulations

The *Dakota County Shoreland and Floodplain Management Ordinance* prescribes additional land use regulations for the Shoreland Overlay District. If any specific regulation in the County Ordinance differs from any specific regulation contained herein, the most restrictive specific regulation shall apply.

**Section 303: District FP - Floodplain Overlay**

A. Purpose

The Floodplain Overlay District is intended to be applied to properties which lie within a primary floodplain, which for the purposes of this Ordinance shall be construed to be a stream channel and the portions of the adjacent floodplain as are required to efficiently carry the flood flow of creeks, and on which properties special regulations are necessary for the minimum protection of the public health and safety and of property and improvements from hazards and damage resulting from flood waters.

B. Permitted Uses

Permitted uses in the Floodplain Overlay District shall be the same as the permitted uses allowed within the zoning district underlying the FP District, except that residences and structures that restrict the floodway shall be prohibited. Consult the Zoning Map to determine which district provisions apply to the parcel(s) being considered.

C. Accessory Uses

Accessory uses in the Floodplain Overlay District shall be the same as the accessory uses allowed within the zoning district underlying the FP District, except that any structures which restrict the floodway shall be prohibited. Consult the Zoning Map to determine which district provisions apply to the parcel(s) being considered.

D. Conditional Uses

Conditional uses in the Floodplain Overlay District shall be the same as the conditional uses allowed within the zoning district underlying the FP District, except that any structures which restrict the floodway shall be prohibited. Consult the Zoning Map to determine which district provisions apply to the parcel(s) being considered.

E. Prohibited Uses and Structures

All other uses and structures not specifically allowed as permitted or conditional uses, or that cannot be considered accessory uses, shall be prohibited in the FP Floodplain Overlay District.

F. General Regulations

Requirements for signs, sewage treatment, area and height provisions, and other regulations are set forth in Articles IV through VII.

G. Disclaimer of Liability

The FP District herein established is intended to provide a reasonable approach to flood control based on present information. As additional information becomes available, the extent of the various boundaries shall be so altered to maintain this reasonableness. This Ordinance does not imply that areas beyond the district limits will be free from flooding, nor shall this Ordinance, or districts established herein, create a liability on the part of or cause action against Hampton Township or any office, official, or employee thereof, for any flood damage that may result from reliance upon this Ordinance or flood district so established.

H. County Regulations

The *Dakota County Shoreland and Floodplain Management Ordinance* prescribes additional land use and placement regulations for the Floodplain Overlay District. If any specific regulation in the County Ordinance differs from any specific regulation contained herein, the most restrictive specific regulation shall apply.

## ARTICLE IV

### HEIGHT AND PLACEMENT REGULATIONS

#### Section 401: Height and Placement Regulations

##### A. General Height and Placement Regulations

Except as otherwise specifically provided in this Ordinance, no structure shall be erected or maintained between any lot line and the applicable setback distances listed below, and no structure shall be erected or maintained which exceeds the height limit specified below. Where a lot fronts on two streets within 30 degrees of being parallel but not at their intersection, no rear setback is required. The side setback requirement applies to a side lot line and also to any lot line which is neither a front, rear, nor side lot line. The required side yard on the street side of a corner lot shall be the same as the required front yard on such street.

#### Placement and Heights of Building Structures

District	Setback from Public Road Right-of-Way	Side Setback	Rear Setback	<u>Maximum Structure Height:</u>		
				Farm Uses	Non-Farm Uses and Conditional Uses	Communi-cation Towers
Agricultural Preservation	60 feet	15 feet	15 feet	200 feet	35 feet	199 feet
Shoreland Overlay	60 feet	15 feet	15 feet	200 feet	35 feet	199 feet
Floodplain Overlay	60 feet	15 feet	15 feet	200 feet	35 feet	199 feet

Any applicant proposing any construction or alteration that would exceed a height of 200 feet above ground level at the site shall notify the Commissioner of the Minnesota Department of Transportation at least 30 days in advance as required by Aeronautics Rule 14 MCAR 1.3015, Subdivision C; and shall present a certified copy of such notification to the Township at least 10 days before any building permit is issued. Towers need to be the height distance from the road and property lines and from the road rights-of-way, except as provided in Section 628.

##### B. Structure Setbacks from Registered Animal Feedlots or Animal Waste Storage Facilities

It is recommended that new structures maintain the following structure setbacks from registered animal feedlots or animal waste storage facilities:

<u>Animal Units</u>	<u>Minimum Structure Distance from Animal Feedlot or Animal Waste Storage Facility</u>
Fewer than 10	Specified local building setbacks
10-50	100 feet
51-150	500 feet
151-750	1,000 feet
751 or more	¼ mile

This provision shall not apply to dwelling units and accessory structures that are accessory to the registered animal feedlot or animal waste storage facility.

**Section 402: Land Use Density and Intensity Regulations**

- A. Except as otherwise specifically provided in this Ordinance, no development, use, or structure shall exceed the density and intensity limits specified below. Minimum lot width shall be measured at the frontage line. A substandard lot that meets the requirements of Section 403 of this Ordinance, it shall be exempt from these requirements:

<u>District</u>	<u>Minimum Lot Area</u>	<u>Minimum Lot Width At Frontage Line</u>	<u>Minimum Lot Depth At Frontage Line</u>	<u>Maximum Density Per ¼- ¼ Sec.</u>
Agricultural Preservation	1.5 acres	240 feet	175 feet	1
Shoreland Overlay	1.5 acres	240 feet	175 feet	NA
Floodplain Overlay	1.5 acres	240 feet	175 feet	NA

Notwithstanding the foregoing, the minimum lot width at the frontage line for a residential lot shall be 140 feet if the lot has sufficient depth so that the dwelling constructed or placed on the lot is at least 300 feet from the edge of the right-of-way.

- B. Notwithstanding the limitations on density, one additional single family dwelling may be allowed within a quarter-quarter section (40 acres) owned entirely by same person, persons or entity if the only single family dwelling on the property is an original farm dwelling the owner can demonstrate to the satisfaction of the Township was constructed prior to April 21, 1982.
- C. Clustering of more than one single family dwelling within a quarter-quarter section in the Agricultural Preservation District is allowed if the Town Board determines the proposed clustering meets the following standards and requirements:

1. If a quarter section (160 acres) is vacant and is owned by the same person, persons or entity, four single family dwellings may be clustered on one of the quarter-quarter sections of the quarter section.
2. If three contiguous quarter-quarter sections (120 contiguous acres) are vacant and are owned by the same person, persons or entity, three single family dwellings may be clustered on one of the quarter-quarter sections.
3. If two contiguous quarter-quarter sections (80 contiguous acres) are vacant and are owned by the same person, persons or entity, two single family dwellings may be clustered on one of the quarter-quarters sections.
4. A development agreement or restrictive covenant in a form acceptable to the Township that clearly states that the allowed densities from the parcels that do not contain clustered single family dwellings have been transferred to the parcel that contains the clustered single family dwellings has been recorded against the affected parcels.
5. Easements for common usage and agreements for common maintenance of shared driveway access in forms acceptable to the Township have been executed and recorded, if required. Common driveways are subject to the Township's driveway standards.

The Town may have the Planning Commission review any clustering proposal and provide a recommendation to the Town Board. The Town Board will consider the Planning Commission's recommendation, if requested, and the requirements of this Ordinance before deciding whether to approve the proposed clustering.

The Town Board may, in its sole discretion, approve a clustering proposal that does not strictly comply with the above standards if it determines the proposal satisfies all of the following requirements:

1. The resulting density will not exceed four single family dwellings in the quarter section. If a pre-existing single family dwelling satisfying the requirements of Section 402.B exists in the quarter section, the total number of single family dwellings in the quarter section shall not exceed five;
2. The area in which the single family dwellings are proposed to be clustered have adequate access to a public road and can adequately be served by on-site water and wastewater services;
3. The proposed clustering will not create an unreasonable burden on public infrastructure; and

4. The proposal is consistent with the intent of the clustering provisions, the related density limitations, ownership requirements, and the other applicable provisions of this Ordinance.

### **Section 403: Substandard Lot or Parcel Provisions**

A substandard lot or parcel properly recorded in the office of the Dakota County Register of Deeds on or prior to April 21, 1982 shall be deemed a buildable lot for a single family dwelling provided that it meets all of the following requirements:

- A. It is at least 1.5 acres in size;
- B. It has at least 66 feet of frontage on a public right-of-way;
- C. It meets the requirements of the *Dakota County Shoreland and Floodplain Management Ordinance*;
- D. Any proposed use is a use that is authorized by this Ordinance;
- E. It meets the ISTS requirements in Section 620 of this Ordinance; and
- F. Its development for single family residential purposes will not violate the general intent and purpose of this Ordinance, including but not limited to, the prevention of pollution of surrounding bodies of water and lands and the preservation of the health, safety, and welfare of the general public.

The creation of a new substandard lot or parcel is prohibited. A lot or parcel shall not be subdivided, and property lines shall not be adjusted, in any way that results in the creation of a new substandard lot or parcel, or that increases the nonconformity of an existing substandard lot or parcel.



**ARTICLE V**

**NONCONFORMING USES AND SUBSTANDARD LOT  
PROVISIONS**

**Section 501: Intent**

It is the intent of this Ordinance to permit legal, nonconforming uses and structures existing on April 21, 1982 to continue until they are removed, but not to encourage their survival.

**Section 502: Nonconforming Use, Buildings**

The lawful use of a building or structure existing on April 21, 1982 may be continued although such use does not conform with the district provisions herein.

**Section 503: Nonconforming Use, Extension**

A nonconforming use may be extended throughout a legal, nonconforming building or structure, provided no structural alterations or changes are made therein, except those required by law or Ordinance, such as may be required for safety, or such as may be necessary to secure or ensure the continued use of the building during its natural life.

**Section 504: Nonconforming Use, Damaged**

Except as otherwise provided by law, any nonconforming use or structure, including the lawful use or occupation of land or premises existing at the time of the adoption of Ordinance 1982 on April 21, 1982, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

- A. The nonconforming use or structure is discontinued for a period of more than one year; or
- B. Any 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. In this case, the Township may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or

building permit to mitigate created impacts on the adjacent property or water body.

#### **Section 505: Nonconforming Use, Land With No Building**

A nonconforming use of land, which has no nonconforming building or buildings existing on April 21, 1982, may be continued provided the nonconforming use of land shall not in any way be expanded or extended either on the same or adjoining property.

#### **Section 506: Nonconforming Use, Change**

Wherever a nonconforming use has been changed to a conforming use, it shall not thereafter be changed to a nonconforming use.

#### **Section 507: Nonconforming Use, Discontinuance**

In the event that a nonconforming use of any building or building and land is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

#### **Section 508: Nonconforming Use, Zone Change**

The foregoing provisions relative to nonconforming uses shall apply to buildings, land, and uses which hereafter become nonconforming due to classification or reclassification of districts under this Ordinance.

#### **Section 509: Substandard Lots of Record, Shorelands**

Substandard lots of record located within a shoreland area shall be regulated in accordance with the Minnesota Statutes Section 462.357, subdivision 1e, paragraphs (d) to (j).

## ARTICLE VI

### PERFORMANCE STANDARDS

#### Section 601: Intent

The performance standards established in this section are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that cause blight. All future development in all districts shall be required to meet these standards. The standards shall also apply to existing development where so stated. The Town Board shall be responsible for enforcing the standards.

#### Section 602: Determination of Conformity

Before any building permit is approved, the Building Inspector will determine whether the proposed use will conform to the performance standards. The developer or landowners shall supply data necessary to demonstrate such conformance. Such data may include description of equipment to be used, hours of operation, method of refuse disposal, type and location of exterior storage, etc. It may occasionally be necessary for a developer or business to employ specialized consultants to demonstrate that a given use will not exceed the performance standards.

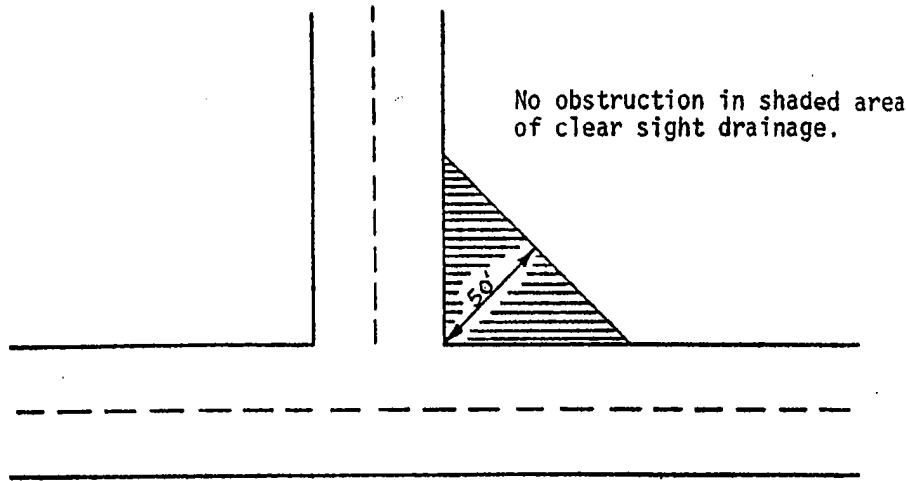
#### Section 603: Traffic Control

##### A. Internal Traffic Control

The traffic generated by any use shall be channelized and controlled in a manner that will avoid: a) congestion on the public streets, b) traffic hazards, and c) excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure its safe and orderly flow.

##### B. Intersections

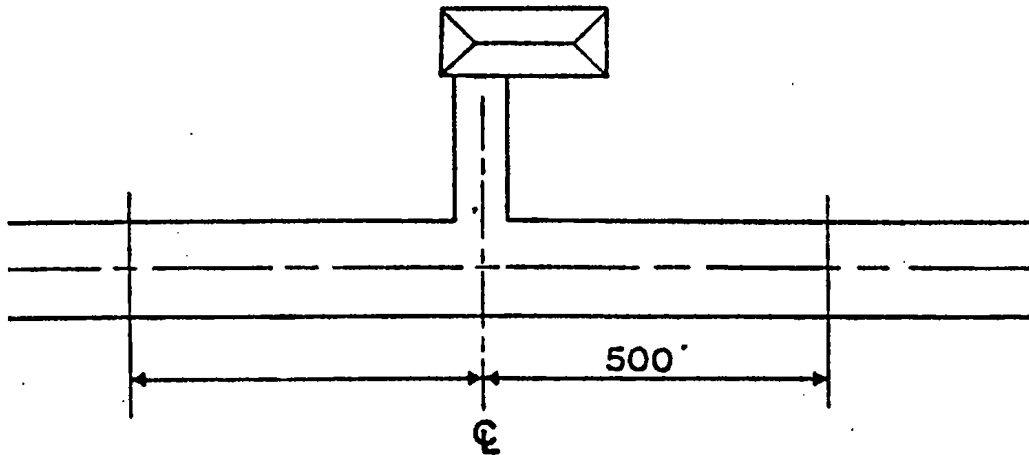
On corner lots, nothing shall be placed or allowed to grow in such a manner as materially to impede vision between a height of two and one-half and ten feet above the centerline grades of the intersecting streets to a distance such that a clear line of vision is possible of the intersecting street from a distance of 50 feet from the intersection of the right-of-way lines.



C.

C. Driveway Accesses and Driveways

1. Permits Required: The construction or reconstruction of a driveway access onto a Township road shall require a driveway access permit from the Township, which must be obtained prior to the issuance of a building permit from the Township. No work on the driveway access shall occur until the driveway access permit has been issued. All driveway accesses constructed or reconstructed within a Township road right-of-way shall comply with the standards and requirements established by the Township and comply with all other applicable laws, rules, regulations and ordinances. The applicant for a permit shall be responsible for all installation and maintenance consistent with the permit and this ordinance.
2. Standards:
  - a. Sight Lines: For residential driveways, clear and unimpeded vision shall be provided at the intersection of the driveway access with any public road. Vision must be unimpeded between a height of two and one-half and ten feet above the centerline grade of the public street such that a clear line of vision from the entrance of the driveway is possible in either direction for a distance of 500 feet along the public road centerline.



Driveways and driveway accesses for residential use shall be located to conform with the side yard requirements of Section 401. All dwellings shall be so located as to permit an eight-foot-wide driveway to be placed from either a public street or a public alleyway to the rear house line.

- b. **Width Requirements:** The permitted width of a driveway access shall be established in the permit issued for the driveway access. The driveway access must be able to reasonably accommodate the type of vehicles anticipated to use the particular driveway access based on the primary use of the property. The entire portion of the driveway access within the right-of-way shall comply with the width requirements, except that the driveway access may be flared as it approaches the surface of the road. The total width of the flared portion shall not exceed the permitted width of the driveway access by more than 5 feet and the flare shall be limited to the area within 5 feet from the edge of the surface of the road.
- c. **Vertical Clearance:** The area above the driveway access used to access a residential or commercial structure, shall be clear of tree branches and other obstructions in order to achieve a vertical clearance of at least 14 feet and such vertical clearance shall be maintained in order to allow access by emergency vehicles.
- d. **Setbacks:** No driveway access shall be placed within any of the following setback distances. Additional corner clearance may be required in the sole discretion of the Town based on the presence of turning lane(s), a skew or complex intersection, atypically wide intersection, heavily traveled roadways or other conditions that reasonably require a further setback distance. Common or shared driveway accesses are exempt from the side lot line setback requirement. The setback from an intersection shall be measured from the closest edge of the intersection right-of-way.

<b>Setback From:</b>	<b>Setback Distance</b>
Another Driveway access	30 feet
Right-of-Way Intersection	60 feet
Side Lot Line	15 feet

- e. **Driveway access Angle:** All driveway accesses shall enter the right-of-way and connect to the surface of the road at 90 degree angles. The driveway access angle is measured as the angle between the driveway centerline and the edge of the surface of the road.
- f. **Driveway Access Profile:** The constructed profile of the driveway access shall be such that it facilitates drainage and shall not exceed a 10% gradient.
- g. **Driveway Headwalls:** The sides of a driveway access used to support its surface, which are also referred to as headwalls, must be constructed in a manner so as not to create an unreasonable hazard for recreational vehicles and vehicles that may leave the travelled surface of the road. Furthermore, placing rocks, fences, pillars, posts, and other materials or structures that extend above the level of the driveway access can also pose a safety hazard and interfere with maintenance of the right-of-way. In order to avoid or reduce such hazards and interferences, a driveway headwall erected or reconstructed within the right-of-way of a town road shall have a slope of no greater than 4 to 1. No materials or structures shall be placed on or along a driveway access that interfere with the maintenance of the right-of-way or that extend more than one foot above the surface of the access drive. This prohibition does not apply to mailboxes and newspaper boxes provided, however, that any mailbox placed or replaced within a town road right-of-way shall comply with the standards in Minnesota Rules, Chapter 8818 regardless of the speed limit on the road.
- h. **Drainage:** Drainage along the road shall be maintained at all times. No driveway access shall be constructed, expanded, altered, or maintained such that it interferes with the drainage of water within a ditch or along a curb and gutter. A culvert shall be required for a driveway approach unless the permit issued for the particular driveway approach indicates a culvert is not required. A permit issued for a driveway access may impose specific requirements for the installation of a culvert or other drainage structure to properly accommodate drainage. A culvert installed within a driveway access shall, at a minimum, have a size of 15 inches in diameter, be a corrugated metal pipe (CMP) or reinforced concrete pipe (RCP), be at least 20 feet in length, and shall extend at least 2 feet beyond the edges of the driveway.

- i. **Maintenance of Drainage Structures:** The owner or occupant of land is responsible for maintaining the drainage structures installed in or associated with a driveway access including, but not limited to, keeping culverts free of dirt and debris, repairing, and replacing drainage structures as needed so as not to not interfere with or obstruct the drainage of water along the right-of-way. If an owner or occupant fails to maintain, clean, repair, or replace a culvert or other drainage structure as needed to avoid obstructing drainage, the Town may undertake such work as may be needed and the owner of the property shall be responsible for fully reimbursing the Town for its costs.

#### **Section 604: Parking**

Parking spaces accessory to one- and two-family dwellings shall be located on the same lot as the dwelling. Long-term parking in residential areas shall be limited to the use of the residents of those single family dwellings.

##### **A. Off-Street Parking Areas**

Off-street parking areas for commercial and industrial uses shall be improved with a durable and dustless surface. Such areas shall be so graded and drained as to dispose of all surface water without damage to adjoining property. The requirements shall also apply to open sales lots. Durable and dustless surface may include crushed rock and similar treatment for parking accessory to one-, two-, three-, and four-unit residential structures; all other uses shall utilize asphalt, concrete, or other water-sealed surface as approved by the Engineer or Building Inspector.

##### **B. General Provisions**

All accessory off-street parking facilities required herein shall be located as follows:

1. There shall be no off-street parking space within five (5) feet of any street right-of-way.
2. No off-street open parking area containing more than four (4) parking spaces shall be located closer than five (5) feet from an adjacent lot zoned or used for residential purposes.
3. Off-street parking spaces and loading spaces existing on April 21, 1982 shall not be reduced in number unless said number exceeds the requirements set forth herein for a similar new use.
4. Should a legally nonconforming building, structure, or use in existence upon the effective date of this Ordinance be damaged, or destroyed by fire

or other cause, it may be re-established except that in doing so, any off-street parking or loading which existed must be retained but should plans propose an enlargement of the floor area, seating capacity, or other facilities which would affect the parking or loading requirements, the parking or loading spaces shall be enlarged accordingly.

5. Each parking space shall be not less than nine (9) feet wide and twenty (20) feet in length exclusive of an adequately designed system of access drives and maneuverability area.
6. Parking areas shall be designed so as to provide adequate means of access to a public alley or street. Such driveway access shall not exceed twenty-two (22) feet in width and shall be so located as to cause the least interference with traffic movement.
7. All open, off-street parking areas designed to have head-in parking along the property line shall provide a bumper curb not less than three feet from the side property line or a guard of normal bumper height not less than one foot from the side property line.
8. When a required off-street parking space for six cars or more is located adjacent to a residential area, a fence of adequate design, not over five feet in height nor less than four feet in height, shall be erected along the property line abutting the residential use.
9. It shall be the responsibility of the operator and owner of the principal use to maintain in a neat and adequate manner the parking space(s), access ways, landscaping, and required fences.
10. All off-street parking spaces shall have access off driveway and not directly off the public streets.

#### C. Truck Parking in Residential Areas

No motor vehicle over one-ton capacity bearing a commercial license and no commercially licensed trailer shall be parked or stored in a platted residential district except when loading, unloading, or rendering service. Recreation vehicles and pickups are not restricted by the terms of this provision.

#### D. Off-Street Spaces Required

One space equals 300 square feet.



One- and two-family residences	One and one-half space per dwelling unit.
Multiple dwellings	Two spaces per dwelling unit.
Churches, Theaters, Auditoriums And other places of assembly	One space for each three seats or for each five feet of pew length, based upon maximum design capacity.
Business and Professional Offices	One space for each 400 square feet of gross floor space.
Medical and Dental Clinics	Five spaces per doctor or dentist plus one space for each employee.
Hotel or Motel	One space per rental unit plus one space for each employee.
Hospitals	At least one parking space for each three hospital beds, plus one space for each four employees, other than doctors, plus one parking space for each resident and regular staff doctor.
Sanitarium, Convalescent Home, Rest Home, Nursing Home, or Institution	At least one parking space for each four beds for which accommodations are offered, plus one parking space for each two employees on maximum shift.
Drive-In Food Establishment	At least one parking space for each fifteen square feet of gross floor space in building allocated to drive-in operation.
Motor Fuel Station	At least two off-street parking spaces plus four off-street parking spaces for each service stall.
Retail Store	At least one off-street parking space for each one hundred fifty square feet of gross floor area.
Restaurants, Cafes, Bars, Taverns, Nightclubs	At least one space for each three seats based on capacity design.
Industrial, Warehouse Storage, Handling of Bulk Goods	At least one space for each employee on maximum shift or one space for each two thousand square feet of gross floor area, whichever is larger.
Uses not specifically noted	As determined by the Town Board following review by the Planning Commission.

#### E. Off-Street Loading and Unloading Areas

All required loading areas shall be off-street and shall be located on the same lot as the building or use to be served. A loading berth shall not be located less than twenty-five feet from the intersection of two street rights-of-way nor less than fifty feet from a residential district unless within a building. Loading berths shall not occupy the required front yard space. A required loading berth shall be not less than twelve feet in width, fifty feet in length and fourteen feet in height, exclusive of aisle and maneuvering space. Each required loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will least interfere with traffic. All loading berths and access ways

shall be improved with a durable material to control the dust and drainage according to a plan approved by the Township Engineer.

### **Section 605: Single Family Dwelling Occupation**

In any zoning district where single family dwelling occupations are authorized, the following regulations governing said single family dwelling occupations shall be complied with:

- A. Said user shall not occupy an area of more than twenty-five (25) percent of the total floor area of the dwelling.
- B. No such single family dwelling occupations shall require substantial interior or exterior alterations of the dwelling.
- C. Said use shall not create odor, dust, noise, electrical glare, vibrations, or other nuisances noticeable outside of the dwelling.
- D. No sign shall be allowed other than one (1) unilluminated name plate measuring not more than twelve (12) square feet in area attached near the building entrance.
- E. The occupation is to be conducted solely by permanent occupants of the dwelling in which it is located except that one (1) accessory person necessary to the occupation may be employed.

### **Section 606: Housing Performance Standards**

- A. All single family dwellings in the community shall be firmly anchored to a concrete foundation.
- B. All single family dwellings shall possess a minimum of 950 square feet of floor space.
- C. All single family dwellings structures, except earth-sheltered single family dwellings, shall possess pitched roofs, with at least a 25% slope.
- D. All single family dwellings shall be composed of materials that minimize the risk of fire hazards to the occupants of the structure.
- E. No more than one single family dwelling may be constructed or placed on a parcel.

**Section 607: Dwelling Units****A. Earth-Sheltered Single Family Dwellings**

Earth-sheltered single family dwellings for use as a primary single family residential structure shall be allowed a building permit if such structures possess the following characteristics:

1. The roof of the structure is covered with earth or earthen material to the depth of at least two (2) feet.
2. The structure is waterproofed to sufficiently provide a low humidity interior environment.
3. The structure is not designed to provide for the future installation of an upper floor.
4. The structure meets or exceeds all building code standards for fire safety, window area, and other requirements.

**B. Certain Dwelling Units Prohibited**

It shall not be lawful for any person to erect or occupy a temporary dwelling on any lot or parcel of land in Hampton Township except that travel and motor home coaches can be used for such purposes for a period of not over four (4) weeks. No basement, garage, tent, or accessory building shall at any time be used as a separate dwelling. The basement portion of finished house or apartment may be used for normal eating and sleeping purposes, provided it is properly damp-proofed, has suitable fire protection and exits, and is otherwise approved by the Building Inspector.

**C. Relocating Structures**

A conditional use permit shall be required for all permanent relocation of non-farm structures. Relocation of construction sheds and other temporary structures to be located on a lot for less than 18 months requires no permit. For relocation of structures requiring a permit, the applicant shall submit photographs showing all sides of the structure to be moved and photographs of the lot on which the structure is to be located. The Planning Commission may also require photographs of surrounding lots and structures. The Planning Commission shall consider the compatibility of the structure to be relocated with structures and uses on surrounding lots. The Planning Commission shall report its conclusions to the Town Board. If the Town Board decides that relocation of the structure would depreciate the value of structures or lots surrounding the lot upon which it is to be moved, then the permit shall be denied.

**Section 608: Well and Water Supply Management**

Dakota County Ordinance No. 114 Well and Water Supply Management, amended by the Dakota County Board of Commissioners on November 3, 1998, and as amended from time to time, is hereby included in this Ordinance and adopted by reference.

**Section 609: Stormwater Management, Erosion Control, and Wetlands**

A. Findings

The Town Board of Supervisors hereby finds that protection of the water and soil resources found within Hampton Township is necessary for the public good. Uncontrolled and inadequately planned use of natural resources adversely affects the public health, safety, and general welfare by contributing to pollution, erosion, flooding, and other environmental problems, and by creating nuisances, impairing the local tax base, and hindering the ability of the Township to provide adequate flood protection. The Board of Supervisors further finds that:

1. The public health, safety, and welfare is adversely affected by poor ambient water quality and flooding that results from inadequate management of both the quality and quantity of stormwater;
2. Every parcel of real property, both public and private, either uses or benefits from the maintenance of the stormwater conveyance system; and
3. Current and anticipated growth in the Township will increase the need for improvement and maintenance of the stormwater conveyance system.

B. Purpose

The purpose of this section is to promote:

1. The protection, preservation, and property maintenance in the use of the water and soil resources of the Township in order to minimize disturbance to them and to prevent damage to them from erosion.
2. The use of controls and regulations to secure safety from floods, the prevention of loss of life, property damage, and other losses and risk associated with flood conditions, the reduction of the financial burdens imposed upon the community through rescue and relief efforts occasioned by the occupancy or use of areas subject to periodic flooding, the protection of individual and community riparian rights, and the preservation of the location, character, and extent of natural and artificial water storage and retention areas.

3. The enforcement of this Ordinance and the coordination of the enforcement of appropriate and applicable local, state, and federal statutes and regulations.
4. The Township’s adoption of the WMO stormwater management plan as the local watershed plan.

C. Application

1. When the requirements imposed by this ordinance are less restrictive than the requirements of other ordinances, statutes, or regulations, the most restrictive requirements shall apply.
2. The requirements in this section are in addition to the requirements in the Subdivision and Zoning Ordinances and other applicable ordinances, statutes, and regulations.
3. The standards set forth in this section apply whether or not a permit is required.

D. Application for Permit to Conduct Land Disturbing Activity

1. Except as otherwise provided in this Ordinance, it shall be unlawful for anyone to conduct land disturbing activities without having first obtained a written land disturbing activity permit from the Township in accordance with this Ordinance.
2. All applications for a permit to conduct a land disturbing activity shall be made on forms provided by the Township and shall be accompanied by a resource management plan, an application fee, and a cash escrow to reimburse the Township for its out-of-pocket costs. The resource management plan must be signed by a licensed civil engineer or landscape architect.

E. Exemptions

The following land disturbing activities do not require a permit:

1. Minor land disturbance activities, such as single family dwelling gardens and individuals’ single family dwelling landscaping, repairs, and maintenance work.
2. Construction, installation, and maintenance of electric, telephone, or cable television utility lines or individual service connection to these utilities, except where 10,000 or more square feet of land or 100 or more lineal

feet of shoreline is anticipated to be disturbed, or where 50 or more cubic yards of material is anticipated to be moved in such activities.

3. On-site septic systems.
4. Planting or harvesting of agricultural, horticultural, or silvicultural crops, tilling, and drain tiling.
5. Preparation of land for a single family residence separately built if a building permit has been issued, unless:
  - a. in conjunction with multiple construction in a subdivision development, or
  - b. 10,000 or more square feet of land or 100 or more lineal feet of shoreline is anticipated to be disturbed in such activities, or where 50 or more cubic yards of material is anticipated to be moved in such activities.
6. Disturbed land areas for commercial or noncommercial uses of less than 10,000 square feet in size, except where any natural or artificial storage and retention areas or public waters are anticipated to be filled or drained.
7. Installation of fence, sign, telephone, or electric poles and other kinds of posts or poles.
8. Emergency work to protect life, limb, or property, and emergency repairs, provided the land area disturbed is adequately shaped and stabilized when appropriate in accordance with the requirements of the Township or the Dakota Soil and Water Conservation District (SWCD).

F. Resource Management Plan

The resource management plan shall include:

1. The name, address, and phone number of the applicant,
2. Legal description of the property,
3. Site plan including scale, north arrow, and number of streets,
4. Schedule of anticipated starting and completion dates of each land disturbing activity, including installation of construction site erosion control measures needed to meet the requirements of this Ordinance,
5. Location map with major streets and landmarks,

6. Project description,
7. Survey,
8. Utility lines,
9. 2-foot contour map,
10. Existing drainage flow patterns and receiving water body(ies),
11. Existing public waters and natural or artificial water storage and retention areas, and their individual 100-year flood elevations,
12. Existing vegetation,
13. Soils map,
14. Critical erosion area(s),
15. Final contours,
16. Final drainage flow patterns,
17. Final vegetation and permanent stabilization measures,
18. Location and description of erosion and sediment control practices,
19. Location and description of stormwater management control practices, and
20. Description of the maintenance of all erosion, sediment, and stormwater management control practices.

The resource management plan shall address the following criteria:

1. Stabilization of exposed soil areas and soil stockpiles,
2. Establishment of permanent vegetation,
3. Prevention of sediment damages,
4. Scheduling of erosion and sediment control practices,
5. Use of temporary sediment basins,

6. Construction of slopes,
7. Control of stormwater discharge to minimize downstream erosion potential,
8. Stabilization of waterways and outlets,
9. Protection of storm sewer inlet from sediment,
10. Working in or crossing water bodies,
11. Underground utility construction,
12. Construction access routes,
13. Disposal of temporary erosion and sediment control measures, and
14. Maintenance of erosion and sediment control practices.

G. Review of Resource Management Plan

The Township shall consult with the SWCD in review of the resource management plan for determination of the technical adequacy and effectiveness of the proposed plan and its compliance with the standards in this Ordinance. The Township shall notify the applicant of its decision after receipt of comments from the SWCD.

H. Approval of Resource Management Plan, Permit Issuance, and Letter of Credit/Cash Deposit

1. If the Township determines that the resource management plan meets the requirements of this Ordinance, the Township shall issue a permit valid for a specified period of time that authorizes the land disturbing activity contingent upon the satisfactory implementation and completion of the approved resource management plan. The permit shall reference the specific approved plan or approved revision thereto and shall contain provisions deemed necessary to ensure the maintenance of any permanent or temporary practices.
2. Upon approval of the resource management plan, the Township shall require the developer to provide a letter of credit or cash deposit in favor of the Township sufficient to ensure the satisfactory installation, completion, and maintenance of the measures and procedures as required in the approved resource management plan.



I. Denial of Resource Management Plan

If the Township determines that the resource management plan does not meet the requirements of this Ordinance, the Township shall deny the issuance of a permit to the applicant. The developer may seek to revise the proposed resource management plan and reapply for a permit.

J. Inspection

The Township, in cooperation with the SWCD, shall inspect the developer's or landowner's progress of implementing the resource management plan. If the Township finds that insufficient progress or a non-compliant activity is occurring, the Township shall immediately notify the developer or landowner of the problem and demand compliance.

K. Certification of Completion of Resource Management Plan

After all of the required measures and procedures as described in the resource management plan have been executed by the developer, the Township, in consultation with the SWCD, shall conduct a review to ensure that all required measures and procedures have been properly executed by the developer.

1. If the Township determines that the resource management plan has been adequately executed, the Township shall issue a certification of completion certificate to the developer.
2. If the Township determines that the developer has not adequately executed the resource management plan as approved, the Township shall require the developer to initiate and complete measures to rectify the deficiencies and to bring the overall project into compliance with the provisions of this Ordinance.

L. Restoration Required

If the developer does not implement the resource management plan, the Township may order the developer to restore the development site, in whole or in part, to compliant conditions as they existed prior to the initiation of the land disturbing activity.

M. Maintenance of Permanent Measures

The developer, his or her heirs or assigns, normally shall be responsible for the long-term maintenance of any permanent measure designed to control erosion, sedimentation, or stormwater runoff, to protect natural or artificial water storage or retention areas, or to protect public waters, unless the Township has accepted an easement of deed from the developer.

## N. Stormwater Management Performance Standards

Proper stormwater management shall be followed within the Township as described in this section. All land disturbing activity, whether or not a permit is required, shall adhere to the following stormwater management standards:

1. The following are general standards:
  - a. The need for stormwater management facilities shall be reduced by incorporating the use of natural topography and land cover, such as wetlands, ponds, natural swales, and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.
  - b. The following stormwater management practices shall be used in developing a stormwater management plan:
    - 1.) Infiltration of runoff on-site, if suitable soil conditions are available for use,
    - 2.) Flow attenuation by use of open vegetated swales and natural depressions,
    - 3.) Stormwater retention facilities, and
    - 4.) Stormwater detention facilities.

A combination of successive practices may be used to achieve the applicable minimum control requirements. Justification shall be provided by the applicant for the method selected.

- c. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods must be used to retain sediment on-site.
- d. When development density, topographic features, and soil vegetation conditions are such that stormwater runoff will not be adequately handled using natural features and vegetation, various types of constructed facilities, such as diversions, settling basins, skimming devices, dikes, waterways, and ponds, may be used. Preference shall be given to designs using surface drainage,

vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

2. The following are specific standards:
  - a. All stormwater management facilities necessary to manage increased runoff shall be constructed so that the two-year, ten-year, and 100-year storm peak discharge rates existing before the proposed development shall not be increased and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity. If approved by the Township, an applicant may also make an in-kind or monetary contribution to the development and maintenance of community stormwater management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.
  - b. Drainage plans for a conveyance system will be designed on a 10-year (4.2-inch, 24-hour storm event) occurrence storm. Stormwater ponding will be based on a 6.0-inch, 24-hour storm event.
  - c. Impervious surface coverage of single family residential lots shall not exceed 25 percent of the lot area.
  - d. Stormwater facilities must be designed and installed consistent with best management practices.
  - e. New constructed stormwater outfalls to any public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
  - f. All stormwater ponds shall be designed and constructed in accordance with National Urban Runoff Program (NURP) criteria.

O. Erosion and Sedimentation Control Performance Standards

Proper erosion and sediment control practices shall be followed within the Township as described in this section. All land disturbing activity, whether or not a permit is required, shall adhere to the following standards:

1. The following are general standards:
  - a. No land occupier or developer shall cause or conduct any land disturbing activity that causes excessive erosion or sedimentation, that damages water or soil resources, or that has adverse, off-site impacts.

- b. All development shall conform to the natural limitations presented by the topography and soil types in order to minimize soil erosion and sedimentation.
  - c. Land disturbing activities shall only occur in increments of workable size such that adequate erosion and sediment controls can be provided throughout all phases of the development. The smallest practical area of land shall be exposed or otherwise disturbed at any one period of time.
2. The following are specific standards:
- a. No land disturbing activity shall cause active gully erosion or negative offsite impacts.
  - b. No land disturbing activity shall cause an increase in channel erosion in any watercourse, whether permanent or intermittent, at any time during or following development.
  - c. No land disturbing activity shall cause the creation of unstable slopes persisting after the completion of the development.
  - d. Permanent or temporary soil stabilization must be applied to disturbed areas (areas where vegetation has been removed or where cuts have been made) as soon as possible, not to exceed 15 days after a substantial portion of rough grading has been conducted, unless an extension is granted by the Township. Soil stabilization measures should be selected to be appropriate for the time of year, site conditions, and estimated duration of use. Soil stockpiles must be stabilized or protected with sediment trapping measures to prevent soil loss.
  - e. A permanent vegetative cover shall be established on disturbed areas not otherwise permanently stabilized.
  - f. Properties adjacent to the site of a land disturbance shall be protected from sediment deposition.
  - g. Sediment basins and traps, perimeter dikes (for diversion), sediment barriers (silt curtains or hay bales), and other measures intended to trap sediment on-site must be constructed as a first step in grading and be made functional before upslope land disturbance takes place. Earthen structures such as dams, dikes, and diversions must be seeded and mulched within 15 days of installation.

- h. Stormwater runoff from drainage areas with more than five acres of disturbed area must pass through a temporary sediment trapping basin or other suitable sediment trapping facility.
- i. Cut and fill slopes must be designed and constructed in a manner that will minimize erosion. If any slope is found to be eroding excessively within one year of construction, the developer must provide additional slope stabilizing measures until the problem is corrected.
- j. Properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of stormwater runoff.
- k. All on-site stormwater conveyance channels shall be designed and constructed to withstand the expected velocity of flow from a 5-year frequency storm without erosion.
- l. All storm sewer inlets which are made operable during construction shall be protected so that sediment-laden water will not enter the conveyance system without first being filtered or otherwise treated to remove sediment.
- m. Construction vehicles should be kept out of watercourses to the extent possible.
- n. The construction of non-exempt underground utility lines shall be subject to the following criteria:
  - 1.) No more than 500 feet of trench is to be opened at one time, unless approved by the Township.
  - 2.) Where consistent with safety and space considerations, excavated material is to be placed on the uphill side of trenches.
  - 3.) Trenched watering devices shall discharge in a manner which will not adversely affect flowing streams, drainage systems, or off-site property.
- o. Wherever construction vehicle access routes intersect paved public roads, provisions must be made to minimize the transport of sediment by runoff or vehicle tracking onto the paved surface.
- p. All temporary erosion and sediment control measures shall be disposed of within 30 days after final site stabilization is achieved

or after the temporary measures are no longer needed, unless otherwise authorized by the Township.

- q. All temporary and permanent erosion and sediment control practices must be maintained and repaired as needed to assure continued performance of their intended function.
- r. Best management practices must be followed.

P. Soil Loss Control

1. Purpose

The purpose of this Subsection is to prevent the degradation of lands, lakes, streams, rivers, and wetlands. This policy applies to all land within the Township, including agricultural land, woodland, pasture, rural land, and developed lands.

2. Soil Loss Limit

Soil Loss Limit means the maximum amount of soil loss from water or wind erosion leaving the property where it is located expressed in tons per acre per year for lands in agricultural use, and expressed in cubic feet for non-agricultural lands. Agricultural use is defined as “use of land for the production of livestock, dairy animals, dairy productions, poultry or poultry products, fur-bearing animals, horticultural or nursery stock including sod, fruit, vegetables, forage and cash grains, forestry, or bees and apiary productions. Wetlands, pasture, and woodlands accompanying land in agricultural use are also in agricultural use. The soil loss limits for soils in agricultural use is two times the specified soil loss tolerances for each soil series as described in the Field Office Technical Guide. The United States Department of Agriculture Soil Conservation Service has prepared a soil survey for Dakota County. The official Dakota County Soil Survey is adopted by reference and declared to be a part of this policy. The soil loss limit for each soil is:

a. Agricultural Land

Soil Series (symbol)	Soil Loss Tolerance T (tons/acre)	Soil Loss Tolerance for this Policy 2T (tons/acre)	Soil Series (symbol)	Soil Loss Tolerance (tons/acre)	Soil Loss Tolerance for this Policy 2T (tons/acre)
Aa	5	10	Hc	4	8
Ab	5	10	Hd	5	10
Ba	5	10	He	5	10
Bb	5	10	Ia	5	10
Bc	5	10	Ka	4	10

Soil Series (symbol)	Soil Loss Tolerance T (tons/acre)	Soil Loss Tolerance for this Policy 2T (tons/acre)	Soil Series (symbol)	Soil Loss Tolerance (tons/acre)	Soil Loss Tolerance for this Policy 2T (tons/acre)
Bd	4	8	La	4	8
Be	3	6	Lb	3	6
Ca	5	10	Lc	5	10
Cb	4	8	Ld	4	8
Cc	5	10	Le	5	10
Cd	2	4	Lf	5	10
Da	4	8	Ma	2	4
Db	4	8	Oa	5	10
Dc	5	10	Pa	2	4
Dd	5	10	Pb	2	4
De	5	10	Ra	5	10
Df	5	10	Sa	2	4
Dg	5	10	Sb	5	10
Ea	3	6	Sc	2	4
Eb	3	6	Ta	3	6
Fa	4	8	Tb	5	10
Ga	5	10	Tc	5	10
Ha	5	10	Wa	4	8
Hb	5	10	Wb	5	10
			Wc	5	10
			Za	5	10

b. Non-Agricultural Land

For non-agricultural land, excessive soil loss is defined as the accumulation of 100 cubic feet of soil onto an adjacent property.

3. Performance Standards

A person may not cause, conduct, contract for, or authorize an activity that causes excessive soil loss. A land occupier shall:

- a. prevent excessive soil loss and ensure that proper management and conservation practices are being applied to the land;
- b. if using wooded or open land for pasture, ensure that proper management is used to prevent excessive soil loss due to overgrazing or cattle paths;
- c. if a body of water, water source, or wetland is located within an agricultural use area, rural area, wooded or open land for pasture, or a wooded area used for timber harvest, ensure that proper management and conservation practices are being applied to the surrounding land.

Q. Wetland Conservation

1. Scope

This section regulates the draining and filling of wetlands and parts of wetlands within the Township. Conflicts with other official controls must be resolved in favor of providing the most wetland protection.

2. Procedure.

- a. Exemption and no-loss determinations. Exemption and no-loss determinations under Minn. Rule parts 8420.0210 and .0220 shall be made by the Township. The Township should seek the advice of the technical evaluation panel on questions of wetland delineation and type. The Township’s decision is final unless appealed to the board of adjustment within 30 days.
- b. Sequencing and replacement plan decisions. Sequencing and replacement plan decisions under Minn. Rule part 8420.0520-.0550 shall be made following the same procedures as for conditional use permits plus the additional notice and time requirements of part 8420.0230. If the amount of wetland to be drained or tilled is less than one-tenth of an acre, the sequencing determination under Minn. Rule part 8420.0520 shall be made by the Township.
- c. Monitoring. The Township shall assure that the replacement plan monitoring and enforcement requirements of Minn. Rule parts 8420.0600-.0630 are fulfilled.
- d. Wetland Banking. Wetlands may be restored or created within the Township for purposes of deposit in the wetland bank in accordance with Minn. Rules parts 8420.0700-.0760. The Township is responsible for approving bank plans, certifying deposits, and monitoring of banked wetlands and enforcement under the rules.
- e. Appeals. Decisions made under this section may be appealed to the Board of Water and Soil Resources under Minn. Rule part 8420.0250, after administrative appeal rights under the official controls have been exhausted.
- f. Variances. The Township may issue variances from its official controls so long as the variances do not vary requirements of the Act or the Rules.
- g. Technical Evaluation Panel. The Township shall appoint a person to serve on the technical evaluation panel. The person must be a



technical professional with expertise in water resources management. Decisions under this Article must not be made until after receiving the determination of the technical evaluation panel regarding wetland public values, location, size, and/or type if the decision-maker, the landowner, or a member of the technical panel asks for such determinations. This requirement does not apply to wetlands for which such data is included in an approved comprehensive wetland management plan per part 8420.0240. The Township shall consider recommendations, if any, made by the technical evaluation panel in making replacement plan decisions.

### **Section 610: Waterways**

#### **A. Design Standards**

The use of storm sewers is not an acceptable alternative to the use of the natural aboveground drainage system to dispose of runoff. Storm sewers may only be used where it can be demonstrated that the use of the above-ground natural drainage system will inadequately dispose of runoff. Above-ground runoff disposal waterways may be constructed to augment the natural drainage system.

1. The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten-year storm event. Development of housing and other structures shall be restricted from the area on either side of the waterway required to channel a twenty-five-year storm event. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.
2. No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.
3. The banks of the waterway shall be protected with a permanent turf vegetation.
4. The banks of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
5. The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
6. The bed of the waterway should be protected with turf, sod, or concrete. If turf or sod will not function properly, rip-rap may be used. Riprap shall consist of quarried limestone, fieldstone (if random riprap is used), or concrete construction materials. The riprap shall be no smaller than two (2) inches square nor no larger than two (2) feet square.

7. If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and said velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Riprap should be allowed to prevent erosion at these points.

B. Waterway Velocity

1. The flow velocity of runoff in waterways shall be controlled to a velocity that will not cause erosion of the waterway.
2. Flow velocity should be controlled through the installation of diversions, berms, slope drains, and other similarly effective velocity control structures.

C. Sediment Control

1. To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.
2. Temporary pervious sediment traps could consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. Such structures would serve as temporary sediment control features during the construction stage of a development.
3. Permanent impervious sediment control structures consist of sediment basins (debris basins, desilting basins, or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

D. Maintenance of Erosion Control System

1. The erosion and velocity control structures shall be maintained in a condition that will ensure continuous functioning according to the provisions of this Ordinance.
2. Sediment basins shall be maintained as the need occurs to ensure continuous desilting action.
3. The areas utilized for runoff waterways and sediment basins shall not be allowed to exist in an unsightly condition. The banks of the sediment basins and waterways shall be landscaped.

4. Prior to the approval of any plat for development, the developer shall make provision for continued maintenance on the erosion and sediment control system.

### **Section 611: Agricultural Retail Sales**

Agricultural retail sales of agricultural products may occur as an accessory use to an agricultural use/operation, nursery, or greenhouse, but such sales shall not exceed 30% of the annual sales of the principal business located on the property.

### **Section 612: Irrigation Systems**

No crop irrigation system shall be positioned and operated in such a manner so as to cause water to be sprayed onto a public road in amounts that cause excessive erosion of the road or softening of the road bed.

### **Section 613: Animal Feedlots and Manure Handling**

#### **A. Intent and Purpose**

The production of farm animals and other agricultural products is an important part of the environment and economy of Dakota County and Hampton Township. Livestock, poultry, dairy products, and other agricultural commodities are produced in Hampton Township. The continued viability of the agricultural community and production of these products is essential to the economic well being of Hampton Township and its residents.

It is the intent of this section to allow for the continued production of agricultural commodities and to maintain a healthy agricultural community while ensuring that animal feedlots and animal wastes are properly managed to protect the health of the public and maintain compatibility of land uses in Hampton Township.

The purpose of this section is to establish an application process for permitting animal feedlots, regulating location, development, operations, and expansion of animal feedlots, promoting best farm management practices, and ensuring land use compatibility.

#### **B. Administration**

##### **1. Registration Required**

Any person proposing to establish a new animal feedlot, or to expand an existing animal feedlot, with a capacity upon establishment or expansion of ten (10) or more animal units must register the feedlot within the Township prior to initiating construction.

2. Registration Application

An application for registration shall include the following:

- a. Owner’s and operator’s name and address,
- b. Existing or proposed location, including quarter section, township, and range,
- c. Animal types and maximum number of animals of each type to be confined at the feedlot,
- d. A sketch identifying dimensions of the feedlot, all setbacks required in Subsection C.2., below, and single family dwellings, buildings, existing manure storage areas and/or structures, lakes, ponds, watercourses, wetlands, dry-runs, tile inlets, sink holes, roads, and wells located within the required setback areas,
- e. Plans for buildings or structures as required by this section,
- f. Proof of registration if registration is required under Minnesota Rule, part 7020.0355, as amended,
- g. Proof of a spill response plan for the animal feedlot if such a plan is required by the Minnesota Pollution Control Agency or by Dakota County,
- h. A copy of the plan to manage the manure generated at the animal feedlot, and
- i. A copy of an approved nutrient management plan if one is required by the Minnesota Pollution Control Agency or by Dakota County.

C. Acreage and Setback Requirements

1. Minimum Area

Minimum land requirements for an animal feedlot will be based upon the minimum amount of land required to meet the setback requirements in Subsection C.2., below, and the requirements for spreading of manure as identified in the nutrient management plan.

2. Minimum Setbacks

The following setbacks shall apply to all new animal feedlots and manure storage facilities:

- a. Setback from residence not owned by feedlot owner, family, or employee, or not on property containing the animal feedlot:

Animal Units	Minimum Distance
Fewer than 10	Specified local building setbacks
10-50	400 feet
51-150	500 feet
151-750	1,000 feet
751-1,000	1,750 feet
1,001 +	5,000 feet

- b. Setback from public parks: 1,320 feet

3. Measurements

The separation distances established in this section shall be measured from the perimeter of the animal feedlot or animal waste storage facility to the nearest boundary of the public park or the exterior wall of a residence, whichever applies.

D. Land Application of Manure

1. Application Rates

Manure application rates for new or expanded feedlots will be based upon requirements identified in the nutrient management plan.

2. Injection and Incorporation

Manure from an animal waste storage facility must be injected or incorporated into the soil within twenty-four (24) hours of spreading. Scrape and haul operations are exempted from this provision.

E. Manure Storage and Transportation

1. Compliance with State and Local Standards

All animal manure shall be stored and transported in conformance with State of Minnesota statutes and rules, and local Regulations.

2. Potential Pollution Hazard Prohibited

No manure storage facility shall be constructed, located, or operated so as to create or maintain a potential pollution hazard.

3. Vehicles, spreaders

All vehicles used to transport animal manure on county, state, interstate, township, or city roads shall be leakproof. Manure spreaders with endgates shall be in compliance with this provision provided the endgate works effectively to restrict leakage and the manure spreader is leakproof.

4. Storage Capacity for New Animal Waste Storage Facility

- a. Earthen lagoons are prohibited.
- b. Storage capacity for animal manure from new animal waste storage facilities shall not be less than (7) months, subject to the review and approval by the County Feedlot Officer.

5. Engineer Approval of Plans

All plans for an animal manure storage facility must be approved by an engineer licensed by the State of Minnesota. A report from an engineer licensed by the State of Minnesota must be submitted to and approved by the Dakota County Feedlot Officer or his or her designee prior to use of the structure for manure storage.

6. Abandoned Manure Storage Facilities.

All animal waste must be removed from an animal waste storage facility that has not been operational for 1 year.

7. Emergency Notification

In the event of a leak, spill or other emergency related to the handling of animal manure that presents a potential for pollution of a natural resource or inconvenience to the public, the owner of the animal feedlot or individual or business responsible for transport or spreading of animal manure shall notify the Minnesota Duty Officer and the Dakota County Feedlot Officer or agent to review alternative solutions and to receive authorization to take appropriate actions to remedy the situation. The operator or owner of a feedlot, or the individual or business responsible for transport or spreading of animal manure is responsible for costs associated with clean-up and other remedies related to the emergency.

### **Section 614: Utility Construction and Maintenance**

The following standards shall apply to the construction and maintenance of utility lines and public service structures and shall be considered as requirements for the issuance of permits for construction.

- A. Each road crossing shall be approved by the appropriate road authority.
- B. In the event of repair or improvement of a road, the line owner shall pay for necessary movement and replacement of the line.
- C. In the event of necessary repairs or improvements of drainage ditches, the line owner shall pay for necessary movement and replacement of the line.
- D. Drain tile lines shall be repaired or replaced where cut or damaged by construction for at least 5 feet from the damaged sections.
- E. Utility lines and associated structures (except service lines from a main to a customer) shall be at least 250 feet from residential dwelling units.
- F. Wherever feasible, utility lines shall be located within or along existing railroad or highway rights-of-way, section lines, or other established boundaries and/or easements, or other such routes as approved by the Town Board.
- G. The owner and/or builder of the utility line shall be responsible to pay for such inspection procedures incident to the line's construction and maintenance as the Town Board determines necessary to protect the public interest.
- H. For underground utility lines:
  - 1. All underground lines shall be bored and cased through public and private roads unless the road authority cases and backfills the crossing.
  - 2. All underground lines shall be at least five feet below the bottom of drainage ditches and not impede the flow of water.
  - 3. All underground lines shall be at least one foot below existing and proposed drain tile lines. The utility line owner shall be responsible for:
    - a. The cost of surveys for future drain tile line plans that are incurred because of the existence of the utility line;
    - b. Additional expenses for installation of future drain tile caused by existence of the utility line; and
    - c. Cost of repair of drain tile and crop loss due to settling after utility line construction.
  - 4. Where feasible, underground utility lines shall be at least 20 feet from parallel drain tile.

5. Except as otherwise stated, underground utility lines, except those that serve an individual residence or business, shall be at least 4 feet below the ground surface.
- I. The owners of utility lines shall be held strictly liable for any and all damages that may arise from the operation or malfunction of any utility line or facilities incidental to the operation of the utility line.
- J. The Town Board may impose such other conditions, terms, bonds, and indemnities as may be necessary to protect the public interest.

### **Section 615: Business Operations**

The review and approval of any authorized business operations shall be consistent with the requirements in Section 710 and the following provisions

#### **A. Site Plan Required**

Sufficient copies of scaled drawings, prepared by a registered engineer or architect, shall be prepared for review by the Planning Commission and Town Board. The site plan shall include a property survey, dimensions of structures, parking areas, and setback areas, a description of building materials, and building elevations. The site plan shall be prepared consistent with all requirements of this Ordinance, including but not limited to the following additional requirements:

1. Off-street parking areas shall be consistent with the requirements in Section 604. In figuring the needed area, one parking space shall equal 300 square feet of area. Parking aisles shall be at least 24 feet in width.
2. The parking area shall be paved with asphalt or concrete to specifications approved by the Town Board.
3. The site plan shall clearly indicate suitable storage containers for all waste material.
4. Adequate area shall be designated for snow storage such that clear visibility shall be maintained from the property to any public street.
5. A suitable screening fence or landscaping shall be erected along all property lines except those which are also public right-of-way lines.
6. The design of any structure shall be compatible with other structures in the surrounding area.
7. No business shall be located on a lot of less than one and one-half (1 and ½ acres).



8. A plan shall be submitted showing adequate provision for surface water drainage, consistent with the requirements in Sections 609.
9. Signs may be permitted, consistent with the requirements in Section 618.
10. No plan shall be approved which will in any way constitute a hazard to vehicular or pedestrian circulation. No access drive shall be within 300 feet of any intersection or driveway.

B. Landscaping

The landscaping plan must be approved by the Town Board prior to issuance of a permit and said plan shall include complete specifications for plant materials and other features. At least 30% of the gross lot area shall be landscaped.

**Section 616: Mineral Extraction**

A. Purpose

It is the purpose of this section to establish regulations for mineral extraction that accomplish the following objectives:

1. Protect and preserve the agricultural economy and social characteristics of the agricultural community.
2. Protect agricultural land from premature conversions to non-farm uses.
3. Prevent the permanent conversion of productive farmland to non-farm uses.
4. Protect residents from potential negative impacts associated with mineral extraction.
5. Protect the natural environment from unnecessary and irreversible impacts from mineral extraction activities.
6. Preserve the natural landforms from uncomplementary or incompatible alterations from mineral extraction activities.
7. Protect Township roads and local highways from unsafe conditions, over use, and potential damage from mineral extraction activities.
8. Establish regulations and standards that clearly manage mineral extraction as a use incidental to long-term agriculture.

9. Establish regulations and standards that manage mineral extraction as a short-term use of agriculture land.
10. Establish regulations and standards that restore or enhance extracted areas to suitable farmland conditions.
11. Encourage the extraction of minerals from hills, knobs, or steeply sloped areas that will allow for site rehabilitation that flattens the natural landscape and makes the land more conducive to agricultural uses.
12. Restrict mineral extraction activities that create permanent depressions in the natural landscape and which are not conducive to agricultural uses because of poor drainage, permanent ponding problems, or unworkable slopes.
13. Establish financial assurances that guarantee operational performance and compliance with the provisions of this Ordinance.
14. Ensure compatibility of mineral extraction activities with the goals, policies, environmental protection, and agricultural preservation emphasis of the Hampton Township Comprehensive Plan.

B. Permit Required

It shall be unlawful for any persons, firm, or corporation to extract or process minerals in the Township without first obtaining a permit required by this Ordinance, with cost to be determined by the Township Board.

C. Exceptions

Exceptions to the permit requirement for mineral extraction in the Township include:

1. Excavation for a foundation, cellar, or basement of a building if a building permit has been issued.
2. Excavation by state, county, city, or township authorities in connection with construction or maintenance of roads, highways, or utilities, conducted solely within permanent easement areas or rights-of-way.
3. Curb cuts, utility crossings, or street openings for which another permit has been issued by the Township.
4. Excavation less than one hundred (100) square feet in area and one foot in depth.

5. Excavation or grading for agricultural purposes.
6. Other activities, in which a permit has been issued, site grading is allowed, and mineral extraction is clearly an incidental activity.

D. Mineral Extraction Permit Application

An application for a mineral extraction permit shall be submitted to the Township on a form supplied by the Township. Information shall include but not be limited to the following:

1. Name, address, phone number, and contact person for the operator.
2. Name, address, and phone number of landowner.
3. Acreage and complete legal description of the property on which the facility will be located, including all contiguous property owned by the landowners.
4. Acreage and complete legal description of the property on which the mineral extraction permit will apply.
5. Estimated type and quantity of material to be extracted.
6. Estimated timeframe to operate the facility.
7. A description of all vehicles and equipment estimated to be used by the operator in the operation of the facility.
8. A description of the estimated average daily and peak daily number of vehicles accessing the facility, including a breakdown of operator-owned and non-operator owned vehicles.
9. A description of the haul routes within the Township to be used in the operation of the facility.
10. A description of the soil, vegetation, mineral content, and topography of the subject property.
11. A general description of surface waters, existing drainage patterns, and groundwater conditions within one-half (1/2) mile of the subject property.
12. A general description of any wells or private sewer systems of record, pipelines, power lines, and other utilities or appurtenances on the subject property.

13. Existing topography of the subject property, illustrated by contours not exceeding ten-foot intervals.
14. Proposed topography of the subject property after mineral extraction has been completed, illustrated by contours not exceeding two-foot intervals.
15. Copies of MPCA application documents and operating permits.
16. A description of the potential impacts to adjacent properties resulting from mineral extraction and off-site transportation, including but not limited to noise, dust, surface water runoff, groundwater contamination, traffic, and aesthetics.
17. A description of the plan to mitigate potential impacts resulting from mineral extraction.
18. A description of the method in which complaints about any aspect of the facility operation or off-site transportation are to be received and the method in which complaints are to be resolved.
19. Mineral extraction shall be reviewed, considered, and processed as an interim use.
20. Applicants must obtain an Interim Use Permit application for mineral extraction from the Township Clerk.
21. Applicants are encouraged to appear before the Planning Commission and Town Board for conceptual presentations of the proposed mineral extraction activity.
22. A copy of the application and required supporting information shall be forwarded to the Township or its designee. Within ten (10) business days of receipt of the information a determination of the completeness of the application and supporting documentation will be made. If the application is incomplete, the Township will identify the information which must be submitted before formal review may commence.
23. Upon a determination of completeness, the application will be forwarded to the Planning Commission for formal review. The Township Clerk or Planning Commission shall set a public hearing for consideration of the Interim Use Permit, according to the procedures identified in Section 711.
24. The Planning Commission shall hold the public hearing for the Interim Use Permit, make findings on the consistency of the application with the terms and conditions of this Ordinance, and make recommendations to the Town Board on the issuance of a permit.

25. If the application cannot be acted upon by the Town Board within sixty (60) days of receipt of the completed application, the Township Clerk, or designee, shall notify the applicant in writing that the permit cannot be processed within that timeframe because of the frequency of Township meetings and that action on the permit will be completed within one hundred twenty (120) days of receipt of the completed application.
26. The Town Board shall act on the permit after receiving a recommendation from the Planning Commission and within the timeframe specified above; however, the Town Board shall act on the permit regardless of a recommendation, if the Planning Commission has not made a recommendation within (90) days of receipt of the completed application.
27. The permit review timeline may be extended by written authorization from the applicant.
28. The Town Board shall make findings on the permit application and shall either approve the permit application, approve the permit application with modification, or deny the permit application.
29. The term of the Interim Use Permit shall be for a maximum operational period of three (3) years and a maximum one (1) year period to complete site rehabilitation. The Town Board may, at its sole discretion, consider a one-time extension of the operational term. The maximum term of the extension shall be three (3) years. Factors to be considered in any extension shall include but not be limited to the size of the permit area, the amount of material already extracted, the effect on site rehabilitation and agricultural end use, the effect on physical features of the site, and potential impacts on neighboring properties.
30. An application for mineral extraction on the same site or abutting property for which an Interim Use Permit has been issued shall not be accepted or processed for a period of two (2) years from the date of expiration of that permit.
31. Reapplication for an Interim Use Permit which has been denied by the Town Board shall not be accepted or processed for a period of one (1) year from the date of denial.

E. Performance Standards

Mineral extraction facilities shall operate and conform with the following performance standards and requirements:

1. **Maximum Extraction Area.** The maximum extraction area to be included in the facility permit shall be five (5) acres. The Town Board may consider expanding the extraction area if it is found that existing site conditions and the rehabilitation plan warrant a larger extraction area to fulfill the intent and comply with the conditions of this Ordinance.
2. **Maximum Density of Extraction Facilities.** The maximum density of active, permitted facilities, or the maximum number of permitted facilities within a geographic area, shall be one permitted facility per section (640-acre area) of land in the Township.
3. **Minimum Separation of Extraction Facilities.** The minimum separation between active permitted facilities in the Township shall be a straight-line distance of one mile.
4. **Mineral Extraction Permit Term.** The maximum term for mineral extraction, processing of material and the removal shall be three (3) calendar years. The Town Board may, at its sole discretion, consider a one-time extension of the operational term. The maximum term of the extension shall be three (3) years. Factors to be considered in any extension shall include but not be limited to the size of the permit area, the amount of material already extracted, the effect on site rehabilitation and agricultural end use, the effect on physical features of the site and potential impacts on neighboring properties. Site rehabilitation must be completed by August 15 of the following year.
5. **Seasonal Duration.** Mineral extraction operations shall only occur between May 1 and November 15 of the operational permit year. Final site grading and rehabilitation must be completed between May 1 and August 15 of the final permit year. The Town Board may authorize the removal of material stockpiled on the site during the non-operational months (November 16 to April 30), provided all other provisions of this Ordinance are met and the Interim Use Permit is amended consistent with the procedures in Section 711.
6. **Hours of Operation.** Mineral extraction facilities shall operate only between the hours of 7:00 A.M. to 6:00 P.M. Monday through Friday and 7:00 A.M. to 12:00 P.M. on Saturday.
7. **Access.** Mineral extraction facilities shall have direct property access to a 9-ton or greater design road. The Town Board may require financial guarantees from facility operators to ensure that potential damages to local roads or bridges from facility vehicles will be repaired by the facility operator. The facility operator and Town Board may agree to minimum roadway improvements or maintenance obligations as a condition of the permit.

8. Haul Routes. Haul routes for mineral extraction facilities shall be identified by the operator. In general, the haul routes designated shall minimize the use of gravel roads.
9. Roadway Dust Control. The permit shall specify the manner in which the operator will control dust on gravel roads used in hauling facility materials. In lieu of other approved remedies, water trucks must be used on gravel roads when the number of facility vehicles exceeds three (3) one-way trips per hour.
10. Facility Dust Control. The permit shall specify the manner in which the operator proposes to control potential airborne dust generated within the facility.
11. Authorized Use. The Interim Use Permit for the mineral extraction facility shall allow mineral extraction equipment, crushing equipment, screeners, conveyors, loading equipment, site rehabilitation equipment, and material hauling vehicles for authorized activities and use of the facility. All other use, equipment, or activities shall be considered accessory uses. Mineral extraction excludes the removal of topsoil from the site, unless specifically authorized in the permit.
12. Accessory Uses. Accessory uses are those uses not included as authorized use of the mineral extraction facility. The Town Board may consider accessory uses as part of the Interim Use Permit or an amended Interim use Permit, provided the review and consideration for accessory uses is consistent with this Ordinance. All other accessory uses are prohibited.
13. Backhauling. No material may be hauled or backhauled from an off-site location to the mineral extraction facility unless specifically authorized in the Interim Use Permit. Examples of authorized backhauling may include importation of clay for roadway mix or topsoil for site rehabilitation.
14. Setbacks. No extraction activity shall be allowed within fifty (50) feet of any adjacent property, roadway easement or utility, unless the Town Board finds that a lesser setback will result in more appropriate site rehabilitation. Facility equipment shall not be located closer than one thousand (1,000) feet from a residence, unless a written waiver is received from the owner of the residence for a lesser setback. The Town Board may reduce the setback to five hundred (500) feet if it finds that the natural topography or artificial berming and screening are sufficient to protect the residence from facility impacts. No waiver or setback reductions shall be construed as a waiver of noise standards affecting the facility.

15. Depth to Groundwater. No excavations or extraction shall occur within ten (10) feet of the historical high groundwater elevation on the site.
16. Noise. Maximum noise levels associated with the mineral extraction facility shall be consistent with the daytime noise standards established by the Minnesota Pollution Control Agency.
17. Air Quality/Water Quality. All activities associated with the mineral extraction facility shall be conducted in a manner consistent with Minnesota Pollution Control Agency rules and operating permits.
18. Vibration. Operators must use all practical methods to minimize impacts of equipment vibration on adjacent properties.
19. Explosives. The use of explosives is prohibited unless specifically authorized in the Interim Use Permit.
20. Weed Control. The facility operator shall be required to control noxious weeds on the site and mow or harvest other vegetation as needed or required by the Township.
21. Fencing. The Town Board may require the facility or portions of the facility to be fenced during operation or during the off-season. The Town Board may also require that fencing or a gate be placed at the facility entrance to prevent unauthorized access.
22. Site Rehabilitation. The rehabilitation plan must include final grade contours, topsoil replacement, seeding, fertilizing, erosion control, sedimentation control details and specifications. The plan must also identify seasonal erosion and sedimentation control measures during facility operation. Final site rehabilitation shall conform to the following minimum requirements.
  - a. Final grades shall not exceed twelve (12) percent. During final site restoration, grading may occur within the fifty (50) feet extraction setback area, if such allowance enhances overall site grading and the relationship to adjacent properties.
  - b. All of the topsoil on the site prior to extraction must be retained on the premises and re-spread on the surface of the final grade. Retained topsoil shall be spread at an even depth over the final graded surface.
  - c. The exposed topsoil shall be seeded with alfalfa or pasture grasses consistent with specifications recommended by the Dakota Soil and Water Conservation District, Minnesota Extension Service, or



National Resources Conservation Service. The Town Board may waive the above seeding requirement if the area is prepared for crop production in the same or following growing season.

- d. Soil erosion and sedimentation control practices during and after site rehabilitation shall be consistent with minimum recommendations of the Dakota Soil and Water Conservation District.
  - e. All equipment, machinery, vehicles, materials, and debris shall be removed from the site prior to final site rehabilitation.
  - f. The plan should include the estimated cost of reclamation and a bond to cover the same.
23. Additional Regulations. The Town Board may impose additional regulations and requirements necessary to protect the public health, safety, and welfare.
  24. General Compliance. The mineral extraction facility shall be operated in compliance with all federal, state, and local regulations and laws.
  25. Inactivity. In the event less than five thousand (5,000) cubic yards of material are removed from the facility in any permit calendar year, the Town Board may declare the facility inactive, terminate the Interim Use Permit, and require site rehabilitation.

#### F. Enforcement

1. The operator grants the Township's officers and representatives access to the facility during normal operation hours to inspect the mineral extraction facility and enforce the provisions of this Ordinance.
2. The operator shall be responsible for the repair and maintenance of public and private property in the Township which is acknowledged by the operator or proven to be damaged by the operator, his or her agents, or his or her employees in conducting business or any other activity associated with the mineral extraction facility.
3. A development agreement will be required for all mineral extraction permits.
4. The operator shall hold the Township harmless against all claims by third parties for damage or costs incurred in the development of the subject property. The operator shall indemnify the Township for all costs,

damages, or expenses incurred by the Township arising from such claims, including attorney's fees.

#### G. Termination

The Township shall have the authority to terminate the mineral extraction permit on the happening of any of the following events:

1. The date of termination specified in the interim use permit.
2. Upon a violation of a condition under which the permit was issued, but only after the Township has first provided written notice to the operator (and the landowner, if different from the operator), describing with particularity the specific violation(s) and the steps necessary to remedy the violation(s). Excepting threats to public health, safety, and welfare or violations with simple remedy, the operator shall have a period not exceeding sixty (60) consecutive days to remedy the specific violation(s). If the 60-day remedy period overlaps with or occurs within a period of seasonal shutdown, and the violation(s) are not easily remedied or do not pose a threat to public health, safety, and welfare, the 60-day period may be extended to include the seasonal shutdown period. Upon notice of violation(s) which may threaten the public health, safety, and welfare or which are easily remedied, the operator shall respond promptly and remedy the violation(s) in the shortest reasonable timeframe.
3. Upon a change in the Township's zoning regulations which renders the use nonconforming.
4. Upon a determination that the facility has been inactive.

#### H. Financial Guarantee

The Township shall require a cash escrow or a letter of credit, in a form acceptable to the Township, to guarantee compliance with this Ordinance and the terms and conditions of the development agreement. The Township shall have the right to use the financial guarantee to remove stockpiles and complete site rehabilitation and correct other deficiencies or problems caused by the operator in the event the operator is in default of the permit obligations. The amount of financial guarantee shall be determined by the Town Board as part of the permit issued for the operation or as part of the Township's fee schedule. The financial guarantee shall remain in full force and effect for a minimum period of one and one-half (1 1/2) years beyond the expiration date of the permit. The fund shall be replenished by the operator in the event that any amount is used.

#### I. Liability Insurance

The operator shall at all times procure and maintain, at the operator’s expense, general public liability insurance and automatic liability insurance. This insurance shall cover claims for bodily injuries, wrongful death, and property damage occurring as a result of the operator’s performance of its duties under this Ordinance. Such insurance shall afford protection in the amounts determined by the Town Board as part of the permit, but in no case shall such coverages be less than Five Hundred Thousand Dollars (\$500,000) in respect to injuries or death to a single person, to a limit of not less than One Million Dollars (\$1,000,000) in respect to any one accident or occurrence, and to a limit of not less than Two Hundred Thousand Dollars (\$200,000) in respect to property damage. The Township shall be named an additional insured on all such policies of insurance. The operator shall file with the Township a certificate evidencing coverage before the commencement date of the term of the mineral extraction permit. The certificate shall provide that the Township must be given thirty (30) days written notice of the cancellation of insurance.

J. Fees

1. The applicant shall pay an application fee and the estimated expenses for processing the Interim Use Permit before the application will be considered complete.
2. The applicant shall reimburse the Township for all out-of-pocket expenses incurred by the Township in the review and processing of the mineral extraction permit, facility inspections, and the enforcement of this Ordinance.

**Section 617: Animal Control**

A. Purpose

The purpose of this Ordinance is to establish regulations for the control of animals to protect the public health, safety, and welfare, and to allow for uniform enforcement of such regulations by the Dakota County Sheriff’s Department.

B. Dog Restraint and Vaccinations

1. Running at Large Prohibited

It shall be unlawful for the dog of any person who owns, harbors, or keeps a dog, or the parents or the guardians of any such person under 18 years of age, to run at large. Dogs on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the Township

has posted an area with signs reading “Dogs Prohibited,” or similar statement.

2. Vaccination

a. All dogs kept harbored, maintained, or transported within the Township shall be vaccinated at least once every three years by a licensed veterinarian for:

1.) Rabies (with a live modified vaccine), and

2.) Distemper

b. A certificate of vaccination must be kept, on which is stated the date of vaccination, owner’s name and address, the animal’s name (if applicable), sex, description, and weight, the type of vaccine, and the veterinarian’s signature. Upon demand made by the Township Clerk or a law enforcement officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the Township Clerk, the County Sheriff, or other authorized person. Failure to do so shall be deemed a violation of this Section.

C. Non-Domestic Animals

It shall be illegal for any person to own, possess, harbor, or offer for sale any non-domestic animal within the Township limits. Any owner of such an animal at the time of adoption of this Ordinance shall have thirty days in which to remove the animal from the Township after which time the Township may impound the animal as provided for in this Section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the Township as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

D. Impounding

1. Running at Large

Any animal running at large may be hereby declared a public nuisance. Any law enforcement officer may impound any dog or other animal found running at large and shall give notice of the impounding to the owner of such dog or other animal, if known. In case the owner is unknown, the officer shall post notice at the Township office that if the dog or other

animal is not claimed within the time specified in Subsection D.3., below, it will be sold or otherwise disposed of. Except as otherwise provided in this Section, it shall be unlawful to kill, destroy, or otherwise cause injury to any domestic animal, including dogs running at large.

## 2. Biting Animals

Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the Township Pound for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of such time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for such confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of Dakota County, and provide immediate proof of such confinement in such manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

## 3. Reclaiming

All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, for at least five regular business days, unless the animal is a dangerous animal as defined under Subsection H., below, and unless the animal is a cruelly-treated animal, in which case it shall be kept for ten regular business days, unless sooner reclaimed by the owners or keepers as provided by this Section. In case the owner or keeper shall desire to reclaim the animal from the pound, the person shall be required to pay such fees as set by the Town Board as well as all actual maintenance costs incurred by the pound, as well as any applicable license fees:

- a. Payment of a release fee, as set by the Town Board, and receipt of a release permit from the Sheriff,
- b. Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in said pound, and
- c. If a dog is unlicensed, payment of a regular license fee if required and valid certificate of vaccination for rabies and distemper shots is required.

The release fee in a., above, is in addition to the release permit fee specified by the definition in Section 102 of this Ordinance.

4. Unclaimed Animals

At the expiration of the times established in Subsection D.3., above, if the animal has not been reclaimed in accordance with the provisions of this Section, the officer appointed to enforce this Section may let any person claim the animal by complying with all provisions in this Section, or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this Section shall be payable to the Sheriff.

E. Maximum Number of Dogs

The keeping of more than four dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, is prohibited; except that a litter of pups born of dogs on the same premises may be kept for a maximum period of six months.

F. Nuisances

1. Habitual Barking

It shall be unlawful for any person to keep or harbor a dog that habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least three minutes with less than one minute of interruption. Such barking must also be audible off of the owner's or caretaker's premises.

2. Damage to Property

It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage. Any animal causing damage to property belonging to someone other than the animal's owner or caretaker may be impounded as provided for in this Section, or a complaint may be issued by anyone aggrieved by an animal under this Subsection, against the owner of the animal for prosecution under this Subsection.

3. Cleaning Up Litter

The owner of any animal, or the person having the custody or control of any animal, shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner whether on their own property, on the property of others, or on public property. Any person who fails to

properly cleanup after an animal will be charged a cleanup fee in the amount determined by the Town Board.

4. Other

Any animals kept contrary to this Subsection are subject to impoundment as provided in Subsection D, above.

G. Seizure of Animals

Any law enforcement officer or animal control officer may enter upon private property and seize any animal provided that the following exist:

1. There is an identified complainant other than the law enforcement officer or animal control officer making a contemporaneous complaint about the animal;
2. The officer reasonably believes that the animal meets either the barking dog criteria set out in Subsection F.1., above; the criteria for cruelty; or the criteria for an at large animal set out in the definition in Section 102 of this Ordinance;
3. The officer can demonstrate that there has been at least one previous complaint of a barking dog, inhumane treatment of the animal, or that the animal was at large at this address on a prior date;
4. The officer has made a reasonable attempt to contact the owner of the property and those attempts have either failed or have been ignored;
5. The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper, or other authorized person to have such key shall not be considered unauthorized entry; and
6. Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

H. Animals Presenting a Danger to Health and Safety of Township

If, in the reasonable belief of any authorized person or law enforcement officer, an animal presents an immediate danger to the health and safety of any person, an animal is threatening imminent harm to any person, or an animal is in the process of attacking any person, the officer may destroy the animal in a proper and humane manner. Otherwise the authorized person or officer may apprehend the animal and deliver it to the pound for confinement under Subsection D, above. If the animal is destroyed, all costs of disposal including veterinarian cost are to be

paid by the owner of the animal. If the animal is found not to be a danger to the health and safety of the Township, it may be released to the owner or keeper in accordance with Subsection D.3., above.

I. Diseased Animals

1. Running at Large

No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the Township, any animal which is diseased so as to be a danger to the health and safety of the Township, even though the animal be properly licensed under this Section.

2. Confinement

Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any authorized person or law enforcement officer. The law enforcement officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in such a manner so as to be a danger to the health and safety of the Township, the officer shall cause such animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this Section shall be liable for all costs and fees incurred in the maintaining and disposing of the animal, plus any veterinarian costs.

3. Release

If the animal, upon examination, is not found to be diseased within the meaning of this Section, the animal shall be released to the owner or keeper free of charge.

J. Interference with Officers

No person shall in any manner molest, hinder, or interfere with any person authorized by the Township to capture dogs or other animals and convey them to the pound while engaged in such operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this Ordinance, or in any other manner to interfere with or hinder such officer in the discharge of his or her duties under this Ordinance.



**Section 618: Signs****A. Intent**

The regulations established in this chapter are designed to protect property values, create a more attractive environment, enhance and protect the physical appearance of the community, prevent and reduce potential traffic hazards caused by distracting and obstructing signs, and to remove safety hazards to pedestrians that may be caused by signs projecting over public right-of-way.

**B. Public Right-of-Way**

Only official identification, directional, or traffic control signs shall be allowed within the public right-of-way.

**C. On-Site Advertising Signs**

All new signs larger than 50 square feet in area shall require a conditional use permit. No advertising sign may be larger than 80 square feet in area or 20 feet in height.

**D. Off-Site Advertising Signs**

Off-site advertising signs are not allowed in any district.

**E. Change in Advertising Message**

The change in advertising message maintenance and repair, or the use of extensions, cutouts or embellishments upon an existing advertising structure shall not be considered an enlargement, extension structure, or structural alteration provided that thereby the advertising structure is not caused to exceed any size limitation by this Ordinance.

**F. Poorly-Maintained Signs**

Unpainted signs, broken signs, and signs on vacated buildings shall be removed from the premises on order of the official responsible for enforcement.

**G. Symbolic Signs**

Symbolic signs such as a barber pole which are traditional in nature and size shall be permitted. Small identifying signs under canopies or on retractable awnings shall also be permitted.

**H. Announcement Signs**

Signs for the following purpose not exceeding ten (10) square feet in area and placed back at least twenty (20) feet from front lot line shall be permitted in all districts:

1. A sign advertising only the sale, rental, or lease of the building or premises on which it is maintained.
2. An announcement sign or bulletin board for the use of a public, charitable, or religious institution occupying the premises.
3. An advertising sign in connection with a lawfully maintained nonconforming use.
4. Political signs

I. Lighting

Signs may be illuminated by flashing, intermittent rotating, or moving light or lights as a conditional use.

In all districts, any lighting used to illuminate a lot or structure (including signs) thereon shall be arranged so as to deflect light away from adjacent lots and streets. The source of light shall be hooded or shielded so as to prevent beams or rays of light from being directed at any portion of adjoining properties or streets.

J. Nonconforming Signs

Signs erected prior to April 21, 1982, which do not conform with the sign regulations contained herein, shall not be expanded, modified, or changed in any way except in conformity with these sign regulations.

**Section 619: Refuse**

All waste materials, debris, refuse, or garbage, except animal manure, shall be kept in an enclosed building or be properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse and noxious weeds. Existing uses shall comply with this provision within six months following enactment of this Ordinance.

In all districts the Town Board may require a Conditional Use Permit for any exterior storage if it is demonstrated that such storage is a hazard to the public health, safety, welfare, or convenience, that it has a depreciating effect upon nearby property values, that it impairs scenic views, or that it constitutes a threat to living amenities.

**Section 620: Private Sewage Treatment System and Water Supply 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 an 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.

**Section 621: Sewage Sludge**

No sewage sludge from a municipal or regional sewage treatment plant shall be deposited on or applied to land within Hampton Township, unless the proposed sludge application procedure meets all of the following requirements and standards:

- A. The land occupier shall obtain a sewage sludge permit from the Minnesota Pollution Control Agency. The Hampton Township Clerk shall be notified of the proposed permit at least 30 days prior to the date which the permit is approved and issued by the MPCA. Proof of receipt of the proposed letter of approval concerning the proposed permit shall be required. Such proof of receipt by Hampton Township shall consist, at a minimum, of the written signature of the Hampton Township Clerk acknowledging his or her receipt of particulars concerning the proposed permit.

- B. Hampton Township shall charge a fee as set by the Town Board for Township Inspections of the sludge application site. The inspections shall include a Township inspection and evaluation of the proposed site, checks to ensure that required setbacks and application rates are complied with, inspections to confirm that the sludge is properly incorporated into the soil, and monitoring of the types of crops that are grown on the site after the sewage sludge is applied.
- C. No sewage sludge shall be stockpiled or spread in Hampton Township within 1,000 feet of any occupied residential dwelling other than the residential dwelling of the land occupier or owner seeking to have the sewage sludge applied. No sewage sludge shall otherwise be stockpiled or placed on the surface of the ground for periods which exceed 72 hours. All sewage sludge shall be spread and incorporated into the soil by moldboard plow or other suitable implements that result in the sewage sludge being mixed with the soil to a soil depth of at least six inches, before a 72-hour time period elapses.
- D. The concentration of heavy metals in the sewage sludge applied in Hampton Township shall not exceed the yearly average heavy metal concentration of all sewage sludge originating from wastewater treatment plants.
- E. If any specific regulation contained within this Section differs from any specific regulation established by Dakota County, the Metropolitan Council, the Minnesota Pollution Control Agency, or any other regulatory/policy-making body, the most restrictive specific regulation shall apply to the application of sewage sludge within Hampton Township.

### **Section 622: Bulk Storage of Liquids**

All uses associated with the bulk storage of liquids including, but not limited to, oil, gasoline, liquid fertilizer, chemicals, propane, ammonia, and similar liquids shall require a conditional use permit in order that the Town Board may have assurance that fire, explosion, or water or soil contamination hazards are not present (that would be detrimental to the public health, safety, and general welfare). The Town Board may require diking around said tanks. Diking shall be suitably sealed, and shall hold a leakage capacity equal to one hundred fifteen (115) percent of the tank capacity. Any existing storage tank that, in the opinion of the Town Board, constitutes a hazard to the public safety shall be removed or replaced, upon a written order, within a reasonable period of time.

### **Section 623: Explosives**

No activities involving the storage, sale, or manufacture of materials or products such as TNT or dynamite which could decompose by detonation shall be permitted except as is specifically permitted by the Town Board.

**Section 624: Nuisances**

No noise, odors, vibration, 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, except for such influences vested by normal farm operations. All wastes in all districts shall be disposed of in a manner that is not dangerous to public health and safety nor will damage public waste transmission to disposal facilities.

A. Odors and Exhaust Emission

Odors shall not be allowed to exceed the standards established by the Minnesota Pollution Control Agency. No exhaust pipe, flue, chimney, or whatever shall emit an emission that exceeds those standards set forth by the Minnesota Pollution Control Agency.

B. Toxic Matters

All toxic matters emitted from a use shall conform to those standards set forth by the Minnesota Pollution Control Agency.

C. Animals

Any open or roofed enclosure in which animals are kept shall be consistent with the regulations in Section 613 of this Ordinance.

D. Nuisances to Public Health

The following are declared to be nuisances affecting public health:

1. The effluence from any cesspool, septic tank, drainfield, or human sewage disposal system discharging upon the surface of the ground or dumping the contents thereof at any place, except that septic tank effluent may be deposited on cultivated fields at locations at least 500 feet from any residence.
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. Carcasses of animals not buried or destroyed or otherwise disposed of within 24 hours after death.

E. Nuisances to Peace and Safety

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 that 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.

F. 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 the public highway, but, without a current license attached thereto, whether such vehicle be dismantled or not, outside of an enclosed building in any district.
2. It shall be unlawful to create or maintain a junkyard or vehicle dismantling yard.
3. It shall be unlawful to create a nuisance affecting the health, peace, or safety of any person.

G. Exceptions

Agricultural lands or operations managed in accordance with Section 625 of this Ordinance shall not be considered a nuisance.

**Section 625: Right to Farm**

- A. Individuals owning or renting property that abuts or is located near an agricultural operation may be subject to inconveniences or discomforts arising from such operation. Such discomfort or inconveniences may include but are not limited to noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft used in agricultural crop spraying) during any 24-hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides. One or more of the inconveniences described above may occur as a result of any agricultural operation that is in conformance with existing laws and regulations and with accepted agricultural customs and standards. The Township has determined that the use of real property for agricultural purposes is a high priority and is favored and that those inconveniences arising from such agricultural operations should not be considered to be nuisances provided that the operation is conducted or maintained on agricultural land and is operating in accordance with all applicable state statutes or rules or any issued permit. Such operations shall not be

considered as or become a nuisance, public or private, if the operation was not a nuisance when it began. This provision does not apply to operations or activities considered a nuisance as defined under Minnesota Statutes, Chapter 561.19, Subdivision 2.

- B. Prior to the issuance of any building permit for a use on agricultural land, the owner of the property shall be required to sign a Right to Farm Disclosure Statement. The disclosure shall be on a form provided by the Township (attached to this Ordinance as Appendix 2) and made available to the public. The Township shall file building permit disclosure forms with the Town Clerk.
- C. The purpose and intent of the Right to Farm provisions of this Ordinance shall apply if the Township fails to provide a Right to Farm Disclosure Statement to a building permit applicant.
- D. The purpose and intent of the Right to Farm provisions of this Ordinance shall apply if an applicant for a building permit fails or refuses to sign the Right to Farm Disclosure Statement.

#### **Section 626: Alcohol Licenses and Nude Dancing**

##### **A. Purpose**

The Township of Hampton does hereby ordain that it is in the best interest of the public health, safety, and general welfare of the people of the Township of Hampton that certain types of activities as set forth in this Ordinance are prohibited upon the premises of licensed liquor, wine, and beer establishments so as to best protect and assist the owners, operators, and employees of these premises, as well as patrons and the public in general. Further, the Township does ordain that the standards in this Ordinance reflect the prevailing community standards in the Township of Hampton. This Ordinance is intended to prevent harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Township also desires to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct such as prostitution, sexual assault, and disorderly conduct.

##### **B. Certain Acts Prohibited**

It shall be unlawful for any licensee to permit or allow any person or persons from being upon the licensed premises when such person does not have his or her buttocks, anus, breast, or genitals covered with a nontransparent material.

##### **C. Violation**

A violation of this Ordinance is a misdemeanor, and is justification for revocation or suspension of any liquor, wine, or beer license.

**Section 627: Swimming Pools and Waste Storage Pits**

A. Building Permit Required

A building permit shall be obtained prior to excavation, erection, or any phase of swimming pool or waste storage pit construction.

B. Enclosure Fence

Any new pool that is being constructed shall have a 5 foot fence and as an alternative to a safety fence, an automatic pool cover may be utilized if it meets the standards of F-1346-91 of ASTM, as such standards may be modified, superseded, or replaced by ASTM.

C. Modifications

1. The Hampton Town Board may make modifications to individual cases, upon showing good cause, with respect to height, nature, or location of the fence or wall, gates, latches, or the necessity thereof, providing the degree of protection is not reduced thereby.
2. Upon the application of a property owner, the Town Board may grant extension of time for compliance in individual cases, upon the showing of good cause. Such extensions of time shall not exceed sixty (60) days at a time.

**Section 628: Commercial Wireless Telecommunications Services Towers and Antennae**

A. Interim Use Permit Required

An Interim Use Permit is required for the construction or erection of any commercial wireless telecommunications services towers (hereafter referred to as “towers”). Collocation uses are exempt from the Interim Use Permit process, but require Planning Commission and Town Board approval, according to the Site Plan Review procedures in Section 615.

B. Tower Height

Towers may be erected to a height not exceeding the maximum height in any zoning district.

C. Collocation on Existing Structures

New towers or antennae must be collocated on existing structures, unless it can be documented that it is impractical to collocate on an existing structure because of



technical performance, system coverage, or the system capacity of an existing structure cannot support collocation from a structural engineering standpoint. The determination that collocation 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. The Township may hire a qualified engineer, at the applicant’s expense, to verify the applicant’s findings.

D. Collocation Requirements for New Structures

New towers shall be designed and constructed to permit the future collocation of other commercial wireless telecommunications services, according to the following criteria:

<u>Height of Structure</u>	<u>Number of Collocation Required</u>
75’ or less	No collocation required
Between 75’ and 135’	1 additional user accommodated
135’ or greater	2 additional users accommodated

In satisfying collocation requirements, the owner of the tower must provide adequate access to the tower site and space within the owned or leased area to accommodate collocation user’s equipment needs. Nothing in these regulations shall prevent the owner of the tower from requiring a remuneration from a collocation user. The owner of the tower may also establish reasonable technical requirements for collocation to protect the owner’s investment and guarantee effective telecommunications service.

E. 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.

F. 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 antennae. The setbacks may be reduced to a distance agreed upon by the Township, if the tower applicant furnishes an 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 collocated on existing towers or structures.

G. Lighting

Towers shall not be illuminated unless required by a state or federal agency.

H. 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.

I. 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. Collocation users construct any buildings on the site, the buildings shall be constructed so as to be compatible with existing buildings on the premises.

J. 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.

K. Interference

No wireless telecommunications services shall be permitted that cause 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.

L. Construction Requirements

All wireless telecommunications 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.

M. 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 Interim Use Permit to erect a tower.

N. Other Requirements

The Township may require additional information from the applicant and impose additional standards and regulations in approving plans for commercial wireless telecommunications services to ensure and protect the public health, safety, and welfare.

**Section 629: Accessory Building Permits**

A. Persons desiring to construct an accessory building in Hampton Township must comply with the terms of this Section.

No building permits shall be granted for nor construction of Accessory Buildings allowed on parcels that are not in compliance and conformity with all provisions of Hampton Township zoning and other ordinances at the time of application. Accessory Buildings may be placed only on parcels meeting one or more of the following criteria:

1. The parcel is bare and buildable and contains at least one single family dwelling buildable site under the provisions of this and other applicable ordinances.
2. The parcel in question contains a single family dwelling that is occupied and conforms to all current zoning regulations.
3. The applicant acquires a variance from this provision, having gone through the appropriate procedures contained within this ordinance.

B. Accessory Buildings constructed pursuant to this Section are subject to the following restrictions:

1. Once an Accessory Building is constructed, the parcel upon which the building exists cannot later be subdivided so as to cause the Accessory Building to be situated on land not itself qualified for single-family construction under applicable ordinances.

2. No commercial business or any type of single family dwelling occupation, not otherwise permitted under applicable ordinances, may be conducted in said Accessory Building.
  3. Accessory Buildings must be used only for the personal use of the property owner, and cannot be used for storage for hire.
  4. No signs for advertising purposes may be attached to Accessory Buildings permitted hereunder.
  5. No Accessory Building may be occupied for human habitation or overnight sleeping accommodations.
  6. Semi-trailer units cannot qualify as Accessory Buildings hereunder, whether or not said units have wheels and are prohibited from being used for storage for a period of more than two weeks duration in Hampton Township in the same location.
  7. If an Accessory Building is proposed to have a toilet or shower, then such toilet or shower must be inspected and approved by the building inspector and septic inspector of the Township.
- C. The combined total square footage of accessory buildings on a parcel shall not exceed 4.5% of the total area of the parcel.

If the adjacent parcel that is closest to the portion of the parcel on which the accessory building is to be placed or constructed is developed with a single family dwelling, the distance the accessory building must be setback from that property line at least the applicable setback distance, but in no case less than the length of the longest dimension of the accessory building.

- D. Plan of Corrective Measures:
1. Notification of non-compliance.
  2. Letter of intent to take action.
  3. Legal Action.

**Section 630: Solar Energy****A. Permit Requirements**

1. Generally. All solar energy systems and building integrated solar energy systems are subject to any and all applicable federal, state and local laws and regulations , and all required permits and permissions must be obtained.
2. Commercial Ground-Mounted Systems. A conditional use permit is required for commercial ground-mounted solar energy systems. The Town reserves the right to add additional reasonable conditions to the conditional use permit with respect to aesthetics, height, setbacks, and location
3. Residential Ground-Mounted Systems. Residential ground-mounted solar energy systems are a permitted use in all districts, but must obtain all building and electrical permits that may be required.

**B. Performance Standards**

All solar energy systems shall be subject to the following performance standards, regardless of whether a conditional use permit is required.

1. Location. Solar energy systems shall be limited to the side and rear yards and roofs. On double frontage lots, solar energy systems must be located in the larger of the two front yards.
2. Height.
  - a. Roof-mounted solar energy system. A roof-mounted solar energy system must not exceed the height requirement in the applicable zoning district for the structure on which it is mounted.
  - b. Ground-mounted solar energy system. A ground-mounted solar energy system must not exceed the height requirement in the applicable zoning district for an accessory structure when oriented at maximum tilt.
3. Setbacks. A ground-mounted solar energy system must meet the setbacks required for an accessory structure in the applicable zoning district when oriented at minimum tilt. A roof-mounted solar energy system must comply with all structure setback requirements in the applicable zoning district and must not extend beyond the exterior perimeter of the structure on which the system is mounted.

4. Coverage. The total square footage of a ground-mounted solar energy system when oriented at minimum tilt will be included in:
  - a. The impervious surface calculation for the parcel; and
  - b. The formula in Section 629(C) used to determine the total square footage of accessory buildings allowed on a parcel.
5. Screening. A ground-mounted solar energy system must be screened from view to the extent possible without reducing its efficiency. Screening may include, but is not limited to, walls, fences, or landscaping.
6. Aesthetics. A roof-mounted solar energy system should match the structure to which it is mounted to the maximum extent possible. A ground-mounted solar energy system should match the principal structure to the maximum extent possible.
7. Feeder lines. The electrical collection system for a solar energy system must be placed underground within the boundaries of the property. A collection system may be placed overhead if it is near a substation or a point of interconnection to the electric grid.

C. Abandonment.

A solar energy system that is not in proper working order, has ceased functioning for a period of more than six months or has not been maintained must be deconstructed and removed from the property. Any person who fails to deconstruct and remove a non-functioning solar energy system is guilty of a misdemeanor. The Town may require a surety or letter of credit be provided to the Town at the time of construction of the solar energy system in order to ensure proper deconstruction and removal at such a time that the solar energy system is no longer in proper working order.

## ARTICLE VII

### ADMINISTRATION AND ENFORCEMENT

#### **Section 701: Separability**

This Ordinance and the various parts, sentences, paragraphs, sections, and clauses thereof are hereby declared to be separable. If any part, sentence, paragraph, section or clause is adjudged to be unconstitutional or invalid for any reason by a court of competent jurisdiction, such holding shall not affect the remaining portions of this Ordinance.

#### **Section 702: Relationship to Other Laws**

Whenever regulations or restrictions imposed by this Ordinance are either more or less restrictive than regulations or restrictions imposed by any governmental authority through legislation, rule, or regulation, the regulations, rules, or restrictions which are more restrictive or which impose higher standards or requirements shall govern. Regardless of any other provision of this Ordinance, no land shall be used and no structure erected or maintained in violation of any state or federal pollution control or environmental protection law or regulation.

Ordinances or parts thereof in force at the time this Ordinance shall take effect and inconsistent herewith are hereby repealed.

#### **Section 703: Administrative Standards**

Whenever, in the course of administration and enforcement of this Ordinance, it is necessary or desirable to make any administrative decision, then, unless other standards are in this Ordinance provided, the decision shall be made so that the result will not be contrary to the spirit and purpose of this Ordinance, nor injurious to the surrounding neighborhood.

#### **Section 704: Application of this Ordinance**

No structure shall be constructed, erected, placed, or maintained and no land use commenced or continued within Hampton Township except as specifically, or by necessary implication, authorized by Ordinance. Conditional uses are allowed only on permit granted by the Hampton Town Board upon finding that the specified conditions exist. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized except as prohibited specifically or by necessary implication.

#### **Section 705: Rules**

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

- A. The singular number includes the plural and the plural the singular.
- B. The present tense includes the past and future tenses, and the future the present.
- C. The word “shall” is mandatory, and the word “may” is permissive.
- D. Whenever the term “community” is used in this Ordinance, it shall mean Hampton Township, Dakota County, Minnesota.
- E. The masculine gender includes the feminine and neuter genders.
- F. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be constructed as set forth in such definition. If no set definition is given in this Ordinance, the Board of Adjustment and Appeals shall interpret and define any work or section of this Ordinance.
- G. All measured distances expressed in feet shall be to the nearest tenth of a foot. In event of conflicting provisions, the more restrictive provision shall apply.

#### **Section 706: Enforcement**

The Town Board of Hampton Township shall:

- A. Undertake the necessary actions to enforce and administer the provisions of this Ordinance.
- B. Receive, file, and forward all applications for appeals, variances, conditional uses, or other matters to the designated official bodies.
- C. Instruct the Township Building Inspector to issue occupancy and building permits, and make and maintain records thereof, also to conduct inspections of structures and uses of land to determine compliance with the terms of this Ordinance.
- D. Assure the maintenance of permanent and current records of this Ordinance, including but not limited to, all maps, amendments, special uses, variances, appeals, and applications.

#### **Section 707: Maintenance of Records**

The Town Board of Hampton Township shall instruct either the Town Clerk or Planning Commission Secretary to perform the following duties:

- A. Maintain permanent and current records of this Ordinance, including but not limited to, all maps and amendments.



- B. Receive, file, and forward all applications for appeals, variances, special uses, or other matters to the designated official bodies.

### **Section 708: Appeals and the Board of Adjustment and Appeals**

The Town Board of Hampton Township shall, through the passing of a resolution, provide for the establishment of a Board of Adjustment and Appeals.

The Board of Adjustment and Appeals shall consist of three members whose appointment, term of office, or removal from the Board shall be provided for in the resolution creating the Board of Adjustment and Appeals. For the purposes of this Ordinance, the Hampton Township Board of Supervisors shall serve as the Board of Adjustment and Appeals. The members of the Board of Adjustment and Appeals shall serve without compensation, but may be paid their necessary expenses in attending meetings of the Board and in the conduct of the business of the Board.

The Board of Adjustment and Appeals shall elect a chairperson and vice-chairperson from among its members and shall appoint a secretary who need not be a member of the Board. It shall adopt rules for the transaction of its business and such rules may include provisions for the giving of oaths to witnesses and the filing of written briefs by the parties. The Board shall provide a public record of its proceedings which shall include the minutes of its meetings, its findings, and the action taken on each matter heard by it, including the final order.

The Board of Adjustment and Appeals shall have the following powers:

- A. The Board of Adjustment and Appeals shall act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcing this Ordinance. An appeal may be taken by any person aggrieved by such order, requirement, decision, or determination by filing a written statement of appeal with the Township Clerk within 14 days of the order, requirement, decision, or determination. The written statement must identify the order, requirement, decision, or determination being appealed, describe the alleged error, identify the relief being sought, and must be submitted with an application fee and escrow made payable to the Township Clerk in the amounts listed in the fee schedule.

The Board of Adjustment and Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The reasons or findings for the Board's decision shall be included in the order. The decision of the Board of Adjustment and Appeals on the appeal shall be final,

unless it is appealed to district court as provided in Minnesota Statutes, section 462.361 within 30 days of the decision.

- B. The Board of Adjustment and Appeals shall grant variances in accordance with the procedures outlined for such in Section 712 of this Ordinance.

The meetings of the Board of Adjustment and Appeals shall be held at the call of the chairperson and at such other times as the Board in its rules of procedure may specify.

Hearings by the Board of Adjustment and Appeals shall be held within such time and upon such notice to interested parties as is provided in its adopted rules for the transaction of its business. The Board shall, within a reasonable time, make its order deciding the matter and shall serve a copy of such order upon the appellant or petitioner by mail. Any party may appear at the hearing in person or by agent or attorney.

The decision of the Board of Adjustment and Appeals shall not be final and any person having an interest affected by such decision shall have the right to appeal to district court in the County in which the land is located on questions of law and the fact.

### **Section 709: Zoning Amendments**

- A. An amendment to the text of the Ordinance or the zoning may be initiated by the Town Board or the Planning Commission or by application of a property owner. Individuals wishing to initiate an amendment to this Ordinance shall fill out an application and submit it to the Township Clerk, together with an application fee and escrow made payable to the Township Clerk in the amounts listed in the fee schedule.
- B. When an amendment involves changes in district boundaries affecting an area of five acres or less, property owners within 350 feet of the subject property shall be notified, although failure of any property owner to receive such notification will not invalidate the proceeding. Notification shall be by first class mail.
- C. A public hearing on the rezoning application shall be held by the Planning Commission during the month following such request after the request for the zoning amendment has been received. Notice of said hearing shall be published in the official newspaper designated by the Town Board at least 10 days prior to the hearing. The Planning Commission shall make its report to the Town Board at the next regular meeting of the Town Board following the hearing, recommending approval, disapproval, or modified approval of the proposed amendment.

- D. The Town Board must take action on the application within sixty days following referral by the Planning Commission. The person making the application shall be notified of the action taken. The Town Board shall maintain records of amendments to the text and zoning map of the Ordinance.
- E. No application of a property owner for an amendment to the text of this Ordinance or the zoning map shall be considered by the Planning Commission within the one-year period following a denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission new evidence or change of circumstances warrant it.

**Section 710: Conditional Use Permits**

A. Criteria for Granting Conditional Use Permits

In granting a conditional use permit, the Town Board shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, and general welfare of occupants of surrounding lands, upon existing and anticipated traffic conditions, including parking facilities on adjacent streets and land, upon values of property and scenic views in the surrounding areas, and the consistency of the proposed use with the Comprehensive Plan. In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission or Town Board may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions which they consider necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include but are not limited to the following:

1. Increasing the required lot size or yard dimensions.
2. Limiting the height, size, or location of buildings.
3. Controlling the location and number of vehicle access points.
4. Increasing the street width.
5. Increasing the number of required off-street parking spaces.
6. Limiting the number, size, location, or lighting of signs.
7. Requiring diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.
8. Designating sites for open space.

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

B. Procedure

1. The person applying for a conditional use permit shall fill out and submit to the Township Clerk an application, together with an application fee and escrow made payable to the Township Clerk in the amounts listed in the fee schedule.
2. The application shall be referred to the Planning Commission. A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the Township at least ten days prior to the day of the hearing. Notification shall be made to property owners of record within one-quarter mile of the affected property or to the ten properties nearest to the affected property, whichever would allow for the greatest number of owners. However, failure of any property owner to receive notification shall not invalidate the proceedings. Notification shall be made by first class mail.
3. The Planning Commission shall hold a public hearing on the proposal during the month following the receipt of such request.
4. The petitioner or his representative shall appear before the Planning Commission in order to answer questions concerning the proposed conditional use.
5. The report of the Planning Commission shall be placed on the agenda of the Town Board at its next regular meeting following referral from the Planning Commission.
6. The Town Board must take action on the application within sixty days after receiving the report of the Planning Commission. If it grants the conditional use permit, the Town Board may impose conditions (including time limits) it considers necessary to protect the public health, safety, and welfare; such conditions may include a time limit for the use to exist or operate.
7. An amended conditional use permit application shall be administered in a manner similar to that required for a new conditional use permit and the fee shall be the same as the original permit; amended conditional use permits

shall include requests for changes in conditions, and as otherwise described in this Ordinance.

8. No application for a conditional use permit shall be resubmitted for a period of six months from the date of said order of denial.
9. If a time limit or periodic review is included as a condition by which a conditional use permit is granted, the conditional use permit may be reviewed at a public hearing with notice of said hearing published in the official newspaper at least ten days prior to the review; it shall be the responsibility of the Clerk to schedule such public hearings. The owner of land having a conditional use permit shall not be required to pay a fee for said review. A public hearing for annual review of any conditional use permit may be granted at the discretion of the Town Board.

**Section 711: Interim Use Permits**

A. Purpose

It is intended that the Interim Use Permit procedures allow flexibility in the use of land or structures in the Township, when such uses are not permanent and when such uses meet appropriate conditions and performance standards that protect the public health, safety and welfare.

B. Application, Public Hearing, and Procedure

The application, public hearing, notice, and procedure requirements for Interim Use Permits shall be the same as those for Conditional Use Permits, as provided in Section 710 of this Ordinance. If a proposed interim use is not listed as a permitted interim use in this Ordinance, a text amendment to this Ordinance will be required before an Interim Use Permit may be considered.

C. Termination

All Interim Use Permits shall terminate on the happening of any of the following events, whichever first occurs:

1. The date of termination stated in the permit.
2. Upon violation of the condition under which the permit was issued.
3. Upon change in the Township’s zoning regulations that renders the use nonconforming.

D. Standards

1. The interim use must be allowed in the zoning district where the property is located.
2. The interim use must meet or exceed the performance standards set forth in this Ordinance and other applicable ordinances.
3. The interim use must comply with the specific standards for the use identified in this Ordinance, and must comply with all conditions of approval, which shall be included in an Interim Use Permit agreement.

E. Conditions

The Town Board may attach conditions to the approval of a permit to mitigate anticipated adverse impacts associated with the use, to ensure compliance with the standards of approval, to protect the value of other property, and to achieve the goals and objectives of the Comprehensive Plan.

**Section 712: Variances**

A. Criteria for Granting Variances

The Board of Adjustment and Appeals 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 Hampton Township Comprehensive Plan. “Practical difficulties” means:

1. The property in question cannot be used in a reasonable manner under certain requirements of the ordinance;
2. The plight of the landowner is due to circumstances unique to the property not created by the landowner;
3. The variance, if granted, would not alter the essential character of the locality; and
4. Economic considerations alone do not constitute practical difficulties.

Practical difficulties also include, but are 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. Procedure**

1. The person applying for the variance shall fill out and submit to the Town Clerk an application, together with an application fee and escrow made payable to the Township Clerk in the amounts listed in the fee schedule.
2. The application shall be forwarded to the Zoning Board of Adjustment and Appeals. A notice of time, place, and purpose of the hearing shall be published in the official newspaper of the Township at least ten days prior to the day of the hearing. Property owners within 500 feet of the property in question shall be notified, although failure of any property owner to receive such notification shall not invalidate the proceedings. Notification shall be by surface mail.
3. The Zoning Board of Adjustment and Appeals shall hold a public hearing on the proposal during the month following receipt of such request.
4. The petitioner or his or her representative shall appear before the Board of Adjustment and Appeals in order to answer questions concerning the proposed variance.
5. The Board of Adjustment and Appeals must take action on the application within sixty (60) days of the public hearing. If it grants the variance, the Board may impose conditions (including time limits) it considers necessary to protect the public health, safety, and welfare; such conditions may include a time limit for the use to exist or operate.

**Section 713: Building Permits**

For the purposes of enforcing this Ordinance, a building permit shall be required of all persons intending to erect, alter, or move any building, consistent with the provisions of the adopted State Building Code. Except as provided in Minnesota Statutes, section 326B.121, subdivision 1, a building permit is not required for an agricultural building

- A. Persons requesting a building permit shall fill out a building permit form available from the Town Clerk. A permit fee shall be charged as according to the fee schedule kept on file by the Township Clerk. In the event construction is started before a building permit is obtained, the fee shall be doubled.
- B. Completed building permit forms and a fee based on building valuation shall be returned to the Town Board.

- C. The Town Board within 45 days must take action to either approve or reject the building permit request. The Town Board may request the application to make a recommendation regarding its passage or denial.
- D. Building Permits shall be issued for periods not to exceed one (1) year.
- E. Constructed buildings or portions of constructed buildings shall not be occupied by persons unless a certificate of occupancy is issued by the Township Building Inspector.

#### **Section 714: Fees**

The Town Board maintains a schedule of fees for all zoning and permit requests made pursuant to this Ordinance. The schedule of fees is available from the Township Clerk, and may be altered or amended only by the Town Board. The fee schedule identifies the non-refundable application fee that must be submitted and, to the extent required, the amount of the cash escrow that must be submitted with an application. An application shall not be deemed complete, will not be processed, and no permit shall be issued until the full amount of the application fee and the escrow, if required, is received. When an escrow is required, the applicant is required to fully reimburse the Township for the professional fees it incurs related to the application. The Township shall draw upon the escrow as needed to pay the professional costs it incurs to process and act on the application including, but not limited to, all legal, engineering, and planning fees incurred. All such professional fees shall constitute a service charge, imposed pursuant to the Township's authority under Minnesota Statutes, section 462.353, subdivision 4, which must be paid by the applicant regardless of whether the application is approved, denied, or withdrawn. If the escrow submitted is not sufficient to fully reimburse the Township, the Township will invoice the applicant for the unpaid balance, which must be paid within 30 days of the invoice date. Any amount not paid in full within the 30 day period is subject to collection by the Township pursuant to any method available to it under law including, but not limited to, certifying the unpaid amount to the County Auditor under Minnesota Statutes, section 366.012 for collection as a service charge on the applicant's property in the same manner as property taxes. Once the all of the Township's costs are reimbursed, the Township shall return, without interest, any remaining portion of the escrow to the applicant.

#### **Section 715: Violations and Penalties**

Any person who violates any provision of this Ordinance or any amendment hereto, who fails to perform any act required hereunder, or does any prohibited act, shall be guilty of a misdemeanor, shall be punished to the maximum extent allowed by law. Each and every day on which any violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. Any violation of this Ordinance is hereby declared to be a public nuisance.



**Section 716: Repeals**

Ordinance No. 1982 and all amendments thereto are hereby repealed. Parts of other ordinances in conflict with this Ordinance to the extent of such conflict and no further, are hereby repealed.

**Section 717: Effective Date**

The effective date of this Ordinance shall be after its passage and publication according to law.

Adopted by the Board of Supervisors of Hampton Township, Minnesota, this \_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Chair

ATTEST:

\_\_\_\_\_  
Town Clerk

Title and Official Summary of Ordinance No. 2002 were published in the *Hastings Star Gazette* on August 29, 2002.

Title and Official Summary of Ordinance No. 2002 were published in the *Cannon Falls Beacon* on August 29, 2002.

**APPENDIX 1**

Case Number \_\_\_\_\_  
Fee Paid \_\_\_\_\_  
Date Filed \_\_\_\_\_

APPLICATION FOR CONSIDERATION OF PLANNING REQUEST

*(This form should be filled out in duplicate by typing or printing in ink.)*

TOWNSHIP OF HAMPTON

Street Location of Property: \_\_\_\_\_

Legal Description of Property: \_\_\_\_\_

Owner:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Applicant (if different than owner):

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Type of Request:    \_\_\_ Variance            \_\_\_ Conditional Use Permit  
                          \_\_\_ Amendment            \_\_\_ Interim Use Permit            \_\_\_ Other

Description of Request: \_\_\_\_\_

\_\_\_\_\_

Reason for Request: \_\_\_\_\_

\_\_\_\_\_

Present Zoning Classification: \_\_\_\_\_

Existing Use of the Property: \_\_\_\_\_

Has a request for a Rezoning, Variance, or Special Use Permit on the subject site or any part thereof been previously sought? \_\_\_\_\_ When? \_\_\_\_\_

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Approved \_\_\_ Denied \_\_\_ by the Planning Commission on \_\_\_\_\_ (date)

Approved \_\_\_ Denied \_\_\_ by the Town Board of Supervisors on \_\_\_\_\_ (date)

**APPENDIX 2**

**RIGHT TO FARM DISCLOSURE STATEMENT**

This disclosure statement concerns real property situated within Hampton Township, Dakota County, state of Minnesota, legally described as Hampton Township. This statement is a disclosure of the condition of the described property in compliance with the Hampton Township Zoning Ordinance.

The above-named Township permits and supports operation of properly conducted agricultural operations, as defined in the Right to Farm provisions of the Hampton Township Zoning Ordinance. If the property the applicant is developing is located near agricultural lands or operations included within an area zoned or designated by the Comprehensive Plan for agricultural purposes, the purchaser may be subject to inconveniences or discomforts arising from such operations. Such discomfort or inconveniences may include but are not limited to noise, odors, fumes, dust, smoke, insects, and operation of machinery (including aircraft used in agricultural crop spraying) during any 24-hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides. One or more of the inconveniences described above may occur as a result of any agricultural operation that is in conformance with existing laws and regulations and with accepted customs and standards. The Township has determined that the use of real property for agricultural purposes is a high priority and favored use, and the Township has determined that those inconveniences arising from such agricultural operations should not be considered to be a nuisance provided that the agricultural operations are established and conducted in compliance with the Right to Farm provisions of the Hampton Township Zoning Ordinance. If the purchaser or any other party wants further information about the effect of the Hampton Township Zoning Ordinance provisions, that information is available from the Hampton Town Clerk.

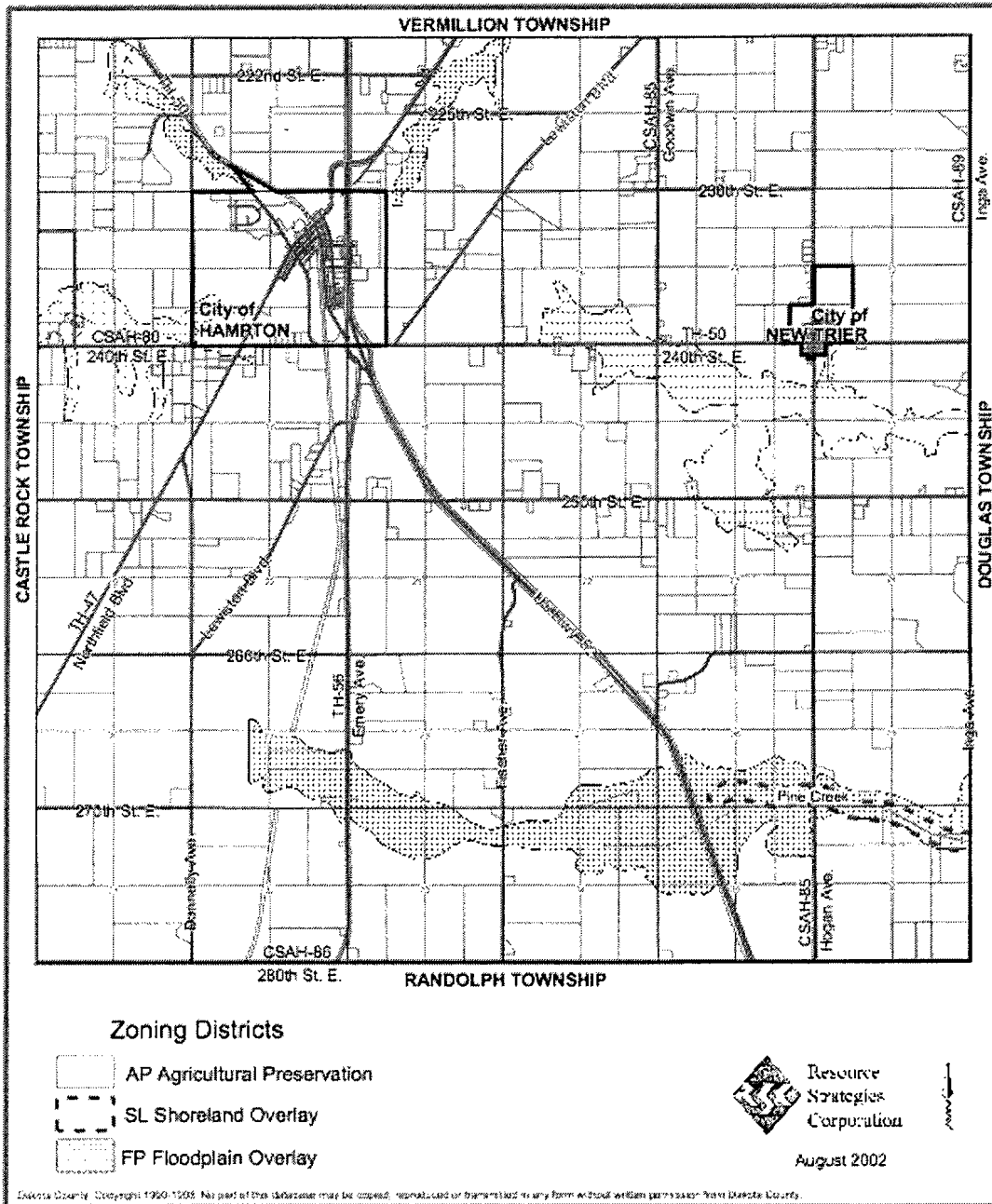
Anyone living near an agricultural area should be prepared to accept the inconveniences and discomforts arising from agricultural operations as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector.

The applicant certifies that he/she has read and understands the provisions contained in this disclosure.

Applicant \_\_\_\_\_ Date \_\_\_\_\_

Applicant \_\_\_\_\_ Date \_\_\_\_\_

# Hampton Township Zoning Map



**HAMPTON TOWNSHIP  
DAKOTA COUNTY, MINNESOTA**

**AN ORDINANCE REGULATING TOWN ROAD  
RIGHT-OF-WAYS AND THE IMPACTS FROM  
LARGE UTILITY PROJECTS**

**Ordinance No. 2014-1**

**Adopted April 15, 2014**

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**AN ORDINANCE REGULATING TOWN ROAD  
RIGHT-OF-WAYS AND THE IMPACTS FROM  
LARGE UTILITY PROJECTS**

The Board of Supervisors of Hampton Township hereby ordains as follows:

**ARTICLE ONE  
USE OF RIGHT-OF-WAYS BY LOCAL UTILITY PROVIDERS**

**Section 100. Findings, Purpose and Intent.**

It is the purpose of this Article to establish reasonable regulations, requirements, and restrictions regarding the use of Town right-of-ways in order to protect the health, safety and welfare of Town residents, those traveling on Town roads, and the general public. It is also the purpose of this Article to protect the cumulative investment the public has made to construct, maintain, and improve the Town's roads by requiring those undertaking utility projects in and near the Town's right-of-ways to obtain a permit from the Town and to be responsible for restoring the right-of-ways directly or indirectly impacted by the project to at least the same or better condition they were in prior to the project. Finally, this Article provides for the recovery by the Town of its actual expenses incurred related to such projects.

**Section 101. Election to Manage Right-of-Ways.**

Pursuant to the authority granted the Town under state and federal statutory, administrative and common law, the Town hereby elects, pursuant to Minnesota Statutes, section 237.163, subdivision 2(b), to manage its right-of-ways within the Town.

**Section 102. Definitions.**

For the purpose of this Article, the following terms shall have the meaning given them in this Section.

- (1) Abandoned Facility. "Abandoned Facility" means a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.
- (2) Applicant. "Applicant" means any person requesting permission to excavate or obstruct a right-of-way.
- (3) Commission. "Commission" means the Minnesota Public Utilities Commission.
- (4) Construction Performance Bond. "Construction Performance Bond" means any of the following forms of security provided at permittee's option:



- (a) Individual project bond;
  - (b) Cash deposit;
  - (c) Letter of Credit, in a form acceptable to the Town;
  - (d) Self-insurance, in a form acceptable to the Town; or
  - (e) A blanket bond for projects within the Town, or other form of construction bond, for a time specified and in a form acceptable to the Town.
- (5) Degradation. “Degradation” means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.
- (6) Degradation Cost. “Degradation Cost” means the cost to achieve a level of restoration, as determined by the Town at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules, parts 7819.9900 to 7819.9950.
- (7) Degradation Fee. “Degradation Fee” means the estimated fee established at the time of permitting by the Town to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.
- (8) Delay Penalty. “Delay Penalty” is the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.
- (9) Emergency. “Emergency” means a condition that: (1) poses a danger to life or health or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.
- (10) Equipment. “Equipment” means any tangible asset used to install, repair, or maintain facilities in any right-of-way.
- (11) Excavate. “Excavate” means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.
- (12) Excavation Permit. “Excavation Permit” means the permit which, pursuant to this Article, must be obtained before a person may excavate in a right-of-way. An excavation permit allows the holder to excavate that part of the right-of-way described in such permit.
- (13) Excavation Permit Fee. “Excavation Permit Fee” means money paid to the Town by an applicant to cover the costs as provided in this Article.
- (14) Facility or Facilities. “Facility” or “Facilities” means any tangible asset in the right-of-way required to provide utility service.

- (15) Local Representative. “Local Representative” means a local person or persons, or designee of such person or persons, authorized by an applicant to accept service and to make decisions for that registrant regarding all matters within the scope of this Article.
- (16) Management Costs. “Management Costs” means the actual costs the Town incurs in managing its right-of-ways, including such costs, if incurred, as those associated with: registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, Chapter 123; Minnesota Statutes, sections 237.162 or 237.163; or any ordinance enacted under those sections, or the Town fees and costs related to appeals taken as provided in this Ordinance.
- (17) Obstruct. “Obstruct” means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.
- (18) Obstruction Permit. “Obstruction Permit” means the permit which, pursuant to this Article, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein.
- (19) Obstruction Permit Fee. “Obstruction Permit Fee” means money paid to the Town by a permittee to cover the costs as provided in this Article.
- (20) Patch or Patching. “Patch” or “Patching” means a method of pavement replacement or roadway repair that is temporary in nature. A patch consists of: (1) the compaction of the sub-base and aggregate base; and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only on roads the Town Board has scheduled to be overlaid within five years.
- (21) Pavement. “Pavement” means any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.
- (22) Permit. “Permit” has the meaning given “right-of-way permit” in Minnesota Statutes, section 237.162.
- (23) Permittee. “Permittee” means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the Town under this Article.

- (24) Person. “Person” means an individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.
- (25) Restore or Restoration. “Restore” or “Restoration” means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.
- (26) Restoration Cost. “Restoration Cost” means the amount of money paid to the Town by a permittee to achieve the level of restoration according to plates 1 to 13 of Minnesota Public Utilities Commission rules.
- (27) Right-of-Way. “Right-of-Way” means the area on, below, or above a public road, highway, street, cartway, bicycle lane or public sidewalk in which the Town has an interest, including other publicly dedicated right-of-ways for travel purposes and utility easements of the Town. The term includes the full width of the Town’s easement or other interest. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.
- (28) Right-of-Way Permit. “Right-of-Way Permit” means either the excavation permit or the obstruction permit, or both, depending on the context, required by this Article.
- (29) Right-of-Way User. “Right-of-Way User” means (1) a telecommunications right-of-way user as defined by Minnesota Statutes, section 237.162, subdivision 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.
- (30) Service or Utility Service. “Service” or “Utility Service” includes the following: (1) those services provided by a public utility as defined in Minnesota Statutes, section 216B.02, subdivisions 4 and 6; (2) services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications systems as defined in Minnesota Statutes, Chapter 238; (4) services provided by a cooperative electric association organized under Minnesota Statutes, Chapter 308A; and (5) water, and sewer, including service laterals, steam, cooling or heating services.
- (31) Service Lateral. “Service Lateral” means an underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer’s premises.
- (32) Temporary Surface. “Temporary Surface” means the compaction of sub-base and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the Town’s two-year plan, in which case it is considered full restoration.

- (33) Trench. “Trench” means an excavation in the traveled surface of a road, with the excavation having a length equal to or greater than the width of the traveled surface.
- (34) Telecommunication Right-of-Way User. “Telecommunication Right-of-Way User” means a person owning or controlling a facility in the right-of-way, or seeking to own or control a facility in the right-of-way that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this Article, a cable communication system defined and regulated under Minnesota Statutes, Chapter 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in Minnesota Statutes, section 216B.02, a municipality, a municipal gas or power agency organized under Minnesota Statutes, Chapters 453 and 453A, or a cooperative electric association organized under Minnesota Statutes, Chapter 308A, are not telecommunications right-of-way users for purposes of this Article.
- (35) Town. “Town” means Hampton Township, Dakota County, Minnesota.
- (36) Town Board. “Town Board” means the Board of Supervisors of Hampton Township, Dakota County, Minnesota.
- (37) Town Representative. “Town Representative” means a Town supervisor or other person designated by the Town Board to conduct inspections or to otherwise oversee work done within right-of-ways, whether such work is done by permit or otherwise.

**Section 103. Permit Requirement.**

- (1) Permit Required. Except as otherwise provided in this Article, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the Town to do so.
  - (a) Excavation Permit. An excavation permit is required to excavate within a right-of-way related to the installation, repair, replacement, or removal of facilities.
  - (b) Obstruction Permit. An obstruction permit is required to obstruct a right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. The incidental obstruction of a right-of-way as part of a project for which an excavation permit has been issued does not require an obstruction permit. However, anything more than an incidental obstruction of the right-of-way shall require an obstruction permit or a combination permit. For the purposes of this Section, an incidental obstruction means the obstruction of the free and open passage over the right-of-way for no more than 30 minutes in any four hour period.
  - (c) Combination Permit. If a proposed utility project involves both the excavation and obstruction of a right-of-way, a person may apply for a combination excavation/obstruction permit.

- (2) Exclusions. The Town, its agents, and contractors performing work for the Town shall not be required to obtain permits from the Town to excavate or obstruct a right-of-way. Contractors performing work for the Town shall be required to erect and maintain such signs and other traffic control devices as are necessary to warn of the work and to protect public safety.
- (3) Permit Extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless: (i) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit; and (ii) a new permit or permit extension is granted.
- (4) Delay Penalty. In accordance with Minnesota Rules, part 7819.1000, subpart 3, the Town may establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration.
- (5) Permit Display. Permits issued under this Ordinance shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Town.

#### **Section 104. Permit Applications.**

Application for a permit is made to the Town. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with, the requirements of the following provisions:

- (1) Application. Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.
- (2) Fees. Payment of money due the Town for:
  - (a) Permit fees, estimated restoration costs and other management costs;
  - (b) Any outstanding amounts related to prior obstructions or excavations;
  - (c) Any undisputed loss, damage, or expense suffered by the Town because of applicant's prior excavations or obstructions of the right-of-ways or any emergency actions taken by the Town; and
  - (d) Franchise fees or other charges, if applicable.
- (3) Disputed Fees. Payment of disputed amounts due the Town by posting security or depositing in an escrow account an amount equal to at least 110% of the amount owing.
- (4) Bond. Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the Town deems the existing construction performance bond inadequate under applicable standards.

**Section 105. Issuance of Permit; Conditions.**

- (1) Permit Issuance. If the applicant has satisfied the requirements of this Article, the Town shall issue a permit.
- (2) Conditions. The Town may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use.

**Section 106. Permit Fees.**

- (1) Establishing Fees. The Town Board shall establish the following fees by resolution, or as part of its general fee schedule, and update the fees as it determines is appropriate:
  - (a) Excavation Permit Fee. The Town shall establish an excavation permit fee in an amount sufficient to recover the Town's management costs, and to the extent applicable, degradation costs.
  - (b) Obstruction Permit Fee. The Town shall establish the obstruction permit fee and shall be in an amount sufficient to recover the Town's management costs.
- (2) Payment of Permit Fees. No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The Town may allow applicant to pay such fees within thirty (30) days of billing.
- (3) Non-Refundable. Permit fees that were paid for a permit that the Town has revoked for a breach as provided in this Article are not refundable.
- (4) Fees. All fees provided for in this Article shall be determined by Town Board and shall be designed to recover the actual costs the Town incurs related to the particular project and in managing its right-of-ways.

**Section 107. Right-of-Way Patching and Restoration.**

- (1) Timing. The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited due to unseasonal or other weather conditions which reasonably prohibit the work.
- (2) Patch and Restoration. Permittee shall patch its own work. The Town may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.
  - (a) Town Restoration. If the Town restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the roadway settles due to permittee's improper backfilling, the permittee shall pay to

the Town, within thirty (30) days of billing, all costs associated with correcting the defective work.

- (b) Permittee Restoration. If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minnesota Rules, part 7819.3000.
- (c) Degradation Fee in Lieu of Restoration. In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.
- (3) Standards. The permittee shall perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the Town and shall comply with Minnesota Rules, part 7819.1100.
- (4) Duty to Correct Defects. The permittee shall correct defects in patching or restoration performed by permittee or its agents. The permittee upon notification from the Town shall correct all restoration work to the extent necessary, using the method required by the Town. Said work shall be completed within five (5) calendar days of the receipt of the notice from the Town, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited by unreasonable weather conditions.
- (5) Failure to Restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the Town, or fails to satisfactorily and timely complete all restoration required by the Town, the Town at its option may do such work. In that event, the permittee shall pay to the Town, within thirty (30) days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the Town may immediately exercise its rights under the construction performance bond.

#### **Section 108. Supplementary Applications.**

- (1) Limitation on Area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area: (i) make application for a permit extension and pay any additional fees required thereby; and (ii) be granted a new permit or permit extension.
- (2) Limitation on Dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after

the end date of the previous permit. This supplementary application must be submitted before the permit end date.

### **Section 109. Other Obligations.**

- (1) Compliance With Other Laws. Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the Town or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minnesota Statutes, sections 216D.01-.09 (Gopher One Call Excavation Notice System) and Minnesota Rules, Chapter 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.
- (2) Prohibited Work. Except in an emergency, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.
- (3) Interference with Right-of-Way. A permittee shall not so obstruct a right-of-way in a way that interferes with the natural free and clear passage of water through the gutters or other waterways. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with Town parking regulations and are located such that they do not create a safety hazard. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.
- (4) Trenchless Excavation. As a condition of all applicable permits, permittees employing trenchless excavation methods including, but not limited to, horizontal directional drilling, shall follow all requirements set forth in Minnesota Statutes, Chapter 216D, Minnesota Rules, Chapter 7560, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the Town.

### **Section 110. Denial of Permit.**

The Town may deny a permit for failure to meet the requirements and conditions of this Article if the Town determines that the denial is necessary to protect the health, safety, and welfare, or if the Town determines such denial is necessary to protect the right-of-way and its current use.

### **Section 111. Installation Requirements.**

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules, parts 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent with the Minnesota Statutes, sections 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minnesota Rules, Chapter 7560 and this Article.



### **Section 112. Inspection.**

- (1) Notice of Completion. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minnesota Rules, part 7819.1300.
- (2) Site Inspection. Permittee shall make the work site available to the Town and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.
- (3) Authority of Town Representative.
  - (a) At the time of inspection, the Town Representative may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.
  - (b) The Town Representative may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the Town Representative that the violation has been corrected. If such proof has not been presented within the required time, the Town Representative may revoke the permit as provided herein.

### **Section 113. Work Done Without a Permit.**

- (1) Emergency Situations. Each right-of-way user shall immediately notify the Town Representative of any event regarding its facilities that it considers to be an emergency. The right-of-way user may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two (2) business days after the occurrence of the emergency, the right-of-way user shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this Article for the actions it took in response to the emergency.
- (2) Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by the Town, deposit with the Town the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this Article.

**Section 114. Supplementary Notification.**

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the Town of the accurate information as soon as this information is known.

**Section 115. Revocation of Permits.**

- (1) Substantial Breach. The Town reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:
  - (a) The violation of any material provision of the right-of-way permit;
  - (b) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the Town or its citizens;
  - (c) Any material misrepresentation of fact in the application for a right-of-way permit;
  - (d) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or
  - (e) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued by a Town Representative.
- (2) Written Notice of Breach. If the Town determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the Town shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the Town, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.
- (3) Response to Notice of Breach. Within 24 hours of receiving notification of the breach, permittee shall provide the Town with a plan, acceptable to the Town, that will cure the breach. Permittee's failure to so contact the Town, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

- (4) Reimbursement of Town Costs. If a permit is revoked, the permittee shall also reimburse the Town for the Town's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

#### **Section 116. Location and Relocation of Facilities.**

Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minnesota Rules, parts 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to townships.

#### **Section 117. Right-of-Way Vacation.**

If the Town vacates a right-of-way that contains the facilities installed pursuant to a permit issued by the Town, the rights of the owner of the installed facilities in the vacated right-of-way are governed by Minnesota Rules, part 7819.3200.

#### **Section 118. Indemnification and Liability.**

By accepting a permit under this Article, permittee agrees to defend and indemnify the Town in accordance with the provisions of Minnesota Rules, part 7819.1250.

#### **Section 119. Abandoned and Unusable Facilities.**

- (1) Discontinued Operations. A right-of-way user who has determined to discontinue all or a portion of its operations in the Town must provide information satisfactory to the Town that the right-of-way user's obligations for its facilities in the right-of-way under this Article have been lawfully assumed by another person.
- (2) Removal. Any right-of-way user who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the Town.

#### **Section 120. Appeal.**

A right-of-way user that: (1) has been denied a permit; (2) has had a permit revoked; (3) believes that the fees imposed are not in conformity with Minnesota Statutes, sections 237.163, subdivision 6; or (4) disputes a determination of the Town Representative regarding compliance with this Article or of permit conditions may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the Town Board. The Town Board shall act on a timely written request at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the Town Board affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

**ARTICLE TWO**  
**PERMIT REQUIREMENTS FOR LARGE UTILITY PROJECTS**

**Section 200. Findings, Purpose and Intent.**

The Town Board is familiar with the range of impacts large utility projects can have on communities. While those impacts can be widespread, this Article is focused on the impacts the construction or expansion of such projects can have on Town right-of-ways, the safety of the traveling public, and those living and owning property along the roads and bridges affected by the project. Large utility projects may involve the placement of pipelines, overhead lines, towers, or other utility facilities that often extend across multiple governmental jurisdictions and which are regulated by the Minnesota Public Utilities Commission. The facilities installed as part of these projects frequently do not provide utility services directly to nearby homes and business, but instead are a means of generating and/or conveying the resource to another location for refinement or redistribution.

The Town Board recognizes the value and need for these projects, and further acknowledges the Minnesota Public Utilities Commission, not the Town, regulates the siting or routing of large utility projects. However, as the road authority, the Town Board determines it has a duty to act to mitigate the impacts large utility projects can have as a result of utility facilities crossing Town right-of-ways and from the heavy hauling and construction traffic on right-of-ways associated with building such projects. Many of the Town's roads and bridges were not built to handle the weight of the types of vehicles often utilized for these projects. The unregulated use of the Town's roads and bridges by the construction vehicles could result in severe damage to Town's infrastructure that exceed the financial resources of the Town to repair. In some cases, it may be possible to improve the roads and bridges to enhance their capacity to accommodate the vehicles, but even in such cases they must be carefully monitored and inspected to identify any resulting damage or degradation that must be repaired.

The purpose of this Article is to protect the Town, its infrastructure, its taxpayers, and the health, safety, and welfare of the public by requiring a project permit and placing reasonable requirements and restrictions on the use of the Town's right-of-ways to mitigate the negative effects of large utility projects. It is also the purpose of this Article to protect the Town's limited financial resources and its taxpayers by ensuring the costs for improving, maintaining, repairing, and restoring the right-of-ways related to the project are paid by the permittee, and that the Town is fully reimbursed for its costs.

**Section 201. Definitions.**

The following definitions shall apply to this Article in addition to the definitions contained in Article One of this Ordinance, to the extent such definitions are consistent with the following:

- (1) Applicant. "Applicant" means any person requesting a project permit associated with a large utility project.

- (2) Construction Security. “Construction Security” means a financial guarantee, whether in the form of a bond, letter of credit, cash, or other type of security, submitted to the Town by an applicant to secure the cost of the right-of-way improvements, alterations, maintenance, repair, and restoration work to be performed pursuant to a project permit. The Town draws from the security as needed to pay for the required work if the permittee fails to pay or perform the work. The Town Board determines the required form and amount of the security the applicant is required to provide.
- (3) Escrow. “Escrow” means cash an applicant deposits with the Town and from which the Town draws to pay the administrative and professional costs it incurs associated with a large utility project.
- (4) Haul Road. “Haul Road” means any right-of-way proposed to be used, or which is actually used, for the hauling of materials, supplies, or equipment related to a large utility project, including construction traffic and access routes. The term shall also include any Town right-of-way used as a detour for public travel to avoid any road temporarily closed or obstructed for the project.
- (5) Large Utility Project or Project. “Large Utility Project” or “Project” means the installation, construction, extension, or expansion of a large energy facility (as defined in Minnesota Statutes, section 216B.2421, subdivision 2), a large electric power facility (as defined in Minnesota Statutes, section 216E.01, subdivision 6), or a large wind energy conversion system (as defined in Minnesota Statutes, section 216F.01, subdivision 2) conducted pursuant to a routing or siting permit issued by the Minnesota Public Utilities Commission or by a local governmental unit through a local review process.
- (6) Permittee. “Permittee” means any person to whom a project permit has been granted by the Town under this Article.
- (7) Project Permit. “Project Permit” means a permit issued by the Town Board related to a large utility project and which must be obtained before any construction traffic or hauling associated on such project may occur on Town right-of-ways.
- (8) Road Use Agreement. “Road Use Agreement” means an agreement entered into between the Town and a permittee related to a large utility project and which may be required as a condition of a project permit.
- (9) Town Engineer. “Town Engineer” means the engineer appointed by the Town to represent it with respect to a large utility project. The Town Engineer may involve such other engineers and other professionals as needed to accomplish the tasks assigned by the Town in carrying out the provisions of this Article, a project permit, and a road use agreement with respect to a particular project.
- (10) Utility Facilities. “Utility Facilities” means any tangible asset in a right-of-way placed as a part of a large utility project or to facilitate the construction or operation of the project.

## **Section 202. Permit Required.**

No person may undertake a large utility project involving the installation of utility facilities within a Town right-of-way or the crossing or use of a Town right-of-way for construction traffic or as a haul road without first having obtained a project permit from the Town. A project permit is only required for large utility projects and such permit is intended to include all permissions and agreements required from the Town for the particular project, shall set out or reference all conditions and requirements imposed by the Town for the project, may include a road use agreement, and shall be the only permit an applicant is required to obtain from the Town for the project, provided the project is exempt from local zoning regulations. If a project changes after the issuance of a project permit such that different right-of-ways are affected or there is a change in the anticipated impacts, an amended project permit shall be required. A project permit shall include any right-of-way obstruction or excavation permit that would otherwise be required by Article One of this Ordinance, any special permit required from the Town for overweight or over length hauling, and shall otherwise address all hauling, construction traffic, right-of-way alterations, and other potential impacts the project may have on the Town's right-of-ways. Notwithstanding the exclusiveness of a project permit, if a person desires to conduct any studies involving the excavation within, or obstruction of, a right-of-way prior to formally approaching the Town regarding a project permit, the person shall obtain the appropriate excavation, obstruction, or combination permit pursuant to the procedures set out in Article One.

## **Section 203. Application Process.**

An application for a project permit shall be submitted, and complete applications will be processed, in accordance with the provisions of this Section.

- (1) Pre-Application Meeting. A person seeking a project permit for a large utility project shall meet with the Town at least once prior to submitting an application to the Town to discuss each of the following with respect to the project:
  - (a) The route and location of utility facilities to be placed throughout the Town;
  - (b) Location of all utility facilities proposed to be installed within the right-of-way;
  - (c) Proposed haul roads;
  - (d) The types of weights of vehicles used for hauling;
  - (e) Proposed construction accesses;
  - (f) Any proposed Town right-of-way alterations;
  - (g) The requirements of this Ordinance;
  - (h) The amount of escrow required;
  - (i) The form and amount of construction security required;
  - (j) Whether a road use agreement will be required; and
  - (k) Any other matters that may be relevant to the project and its impact on the Town and its right-of-ways.
- (2) Road Inspection. Prior to submitting an application, the Town and the person shall inspect any right-of-ways identified as potential haul roads, those on which accesses are to be constructed or altered, and any other right-of-ways to be directly or indirectly

impacted by the project. The purpose of the inspection is to assess the current condition of the roads, bridges, and related facilities and to determine whether they are sufficient, or can reasonably be made sufficient, to handle the proposed truck traffic, construction traffic, alterations, and utility facilities. The Town may, at the person's sole expense, have the right-of-ways inspected by an engineer it selects to assist in determining the adequacy of the roads and bridges to accommodate the proposed uses, to assess and document the present conditions of the right-of-ways, and to determine whether any pre-project improvements are required in order to make one or more right-of-ways or bridges sufficient to accommodate the proposed uses. The Town may recommend to the person alternative haul roads the Town determines will be better able to accommodate the anticipated traffic and minimize safety and maintenance concerns. If the Town determines a road or bridge cannot safely accommodate the anticipated traffic to serve as a haul road or other proposed use, and determines it cannot be reasonably improved to safely accommodate such traffic or use, the person shall be prohibited from using the right-of-way for the proposed use.

- (3) Application. A request for a project permit shall be submitted on an application form approved by the Town Board. The application shall be submitted to the Town Clerk together with the application fee, escrow, and construction security in the forms and amounts determined by the Town Board and as provided in this Article. The application shall, at a minimum, include the following information:
  - (a) A detailed written description of all proposed work, including detailed plans for construction activities, within Town right-of-ways and the timetable for the project; and
  - (b) Identification of proposed haul roads related to the project including whether any detours of public traffic will be required. The applicant shall identify all Town roads, including any bridges, which are proposed to be used in the delivery of utility construction materials, the delivery of utility construction equipment, and all company or contract employee access routes. The applicant shall also identify off-road construction staging areas, material and equipment loading and unloading areas, and employee parking areas for the duration of the proposed utility construction within the Town.
  - (c) A detailed description and location of all utility facilities to be placed, temporarily or permanently, in any right-of-way.
- (4) Town Review of Applications. The Town Board may hold one or more public hearings on the proposed project permit. The Town Board shall consider the information provided by the applicant and such other information as it deems relevant in reviewing the application. The Town Board shall also consider the potential impacts of the project on the Town and identify methods for addressing the impacts. The Town Board may impose reasonable conditions on a project permit as it determines is necessary to protect its right-of-ways and the public health, safety, and welfare. When reviewing an application, the Town Board shall, at a minimum, consider the following:

- (a) Pre-Project Road Improvements. The Town shall determine, in its reasonable discretion, if any pre-project improvements are required on any of the right-of-ways proposed to be used as part of the project. Pre-project improvements may include, but are not limited to, sub-grade correction, base repair, re-surfacing, culvert replacement, alterations to the surface or drainage structures of the right-of-way needed to serve as a haul road, and bridge stabilization or replacement. Any such improvements shall be performed in accordance with the standards, specifications and requirements identified by the Town. The Town shall specifically identify in the project permit the pre-project improvements required to be completed before the right-of-ways may be used for the project. The Town will perform the pre-project improvements at the applicant's expense unless the Town and the applicant agree the applicant shall perform the improvements. If the Town performs the work, the applicant shall deposit with the Town sufficient funds to pay for the work. Such funds shall constitute construction security and the Town shall draw from the funds as needed to pay its costs. If any proposed alteration of a right-of-way requires the acquisition of additional right-of-way area, the applicant shall be solely responsible for negotiating, acquiring, and paying for the additional right-of-way. If the alteration is not intended to be permanent, the applicant shall be responsible for all costs for returning the right-of-way to its prior configuration; and
- (b) Additional Maintenance Needs. The Town shall determine if any additional maintenance work is required on the right-of-ways during the project to accommodate the additional traffic and the resulting impacts on the public such as grading, re-graveling, dust control, and ditch repair. The required additional maintenance work shall be described within the project permit.

#### **Section 204. Escrow.**

At the time of submitting the application, the applicant shall be required to provide the Town a cash escrow in the amount determined by the Town during the pre-application stage. The Town shall withdraw funds from the escrow as needed to pay all administrative, engineering, planning, and legal expenses the Town incurs related to the review and issuance of the project permit, monitoring compliance with the permit conditions, inspecting right-of-way improvements, alterations, maintenance, repairs, and restoration, and enforcing the permit. If at any time the Town determines the amount of the escrow will not be sufficient to fully reimburse the Town's costs, the permittee shall escrow such additional amounts with the Town as determined by the Town Board within ten (10) days of the Town providing written notice of the need for additional escrow. At the conclusion of the project and full restoration of the right-of-ways, the Town will return any unused portion of the escrow, without interest, to the permittee.

#### **Section 205. Construction Security.**

At the time of submitting the application, the applicant shall be required to provide the Town construction security in the form and amount determined by the Town during the pre-application



stage. The amount of the construction security shall not be less than 110% of all anticipated costs for pre-construction improvements and alterations, performing all additional maintenance, and fully restoring all right-of-ways impacted by the project to at least the same condition they were in prior to the project. The Town may agree to release portions of the construction security as work is completed, provided the Town retains at least 110% of the anticipated cost of all remaining work. The permittee shall ensure the construction security remains in place during the entire period of the project and until the Town releases it in writing.

### **Section 206. Issuance of Project Permit; Conditions.**

If an applicant provides the required application information, pays the application fee, provides the required escrow and construction security, participates in the inspections required hereunder, enters into a road use agreement (if required), agrees to limit construction traffic and hauling to the identified haul roads, and agrees to comply with the conditions imposed on the permit, the Town shall issue the requested project permit. All hauling and work performed in the Town's right-of-ways by the applicant, its agents, contractors, assigns, or successors shall be limited to the portions of the right-of-ways identified in the project permit. All project permits are subject to, and are conditioned upon, the permittee's compliance with all requirements and conditions stated in the permit as well as the requirements of this Article including, but not limited to, the following:

- (1) Indemnification. By accepting a project permit under this Article, permittee agrees to defend, indemnify, and hold the Town, its officers, employees and agents harmless, including attorneys fees and defense costs, from all losses, liability or claims for bodily injury or death, property damage, or otherwise arising from or related in any way to the project. The permittee is not required to indemnify the Town for losses or liability arising directly from the Town's own negligence or wrongful acts or omissions;
- (2) Compliance with Other Laws. The permittee is responsible for obtaining all such other permits or permissions related to the project as may be required by law. No additional permits shall be required from the Town once it issues a project permit, provided the project is exempt from local zoning requirements. If the project changes in any material way with respect to its impacts on the Town after the project permit is issued, the permittee shall immediately apply for an amended project permit. Without limiting the foregoing, a change in the project that results in impacts to right-of-ways not specifically identified in the project permit, or that changes the degree or type of impact on a right-of-way, shall constitute a material change in the project requiring an amended project permit; and
- (3) Costs. The permittee shall be responsible for fully reimbursing the Town for all costs it incurs related to the project including, but not limited to, all administrative, professional, construction, alteration, repair, restoration, and enforcement costs. The Town shall invoice the permittee for all such costs that are not paid from the escrow or the billing process established herein for construction costs.

### **Section 207. Road Use Agreement.**

The Town may require, as a condition of a project permit, the permittee to enter into a road use agreement with the Town. The agreement may address one or more of the items to be included in a project permit and may address such other issues related to the project as the parties determine are appropriate. A road use agreement shall be considered part of the project permit and the express provisions of the agreement shall be controlling to the extent they are inconsistent with the provisions of this Article. When required, the Town will draft the agreement for consideration by the permittee. The Town will not approve an agreement unless it is in a form acceptable to the Town Board. The permittee shall be required to fully execute and deliver the agreement to the Town before any work within a right-of-way related to the project may occur.

### **Section 208. Construction Costs and Billing.**

The Town shall provide for the improvement, alteration, additional maintenance, repair, and the restoration of the right-of-ways identified in the project permit unless the Town and permittee agree otherwise as part of a road use agreement. The permittee shall be responsible for fully reimbursing the Town for all costs it incurs to perform this work and shall pay the Town within thirty (30) days of billing for such costs. Permittee shall also be responsible for reimbursing the Town for all costs it may incur to repair and restore any other right-of-ways damaged as a result of the project regardless of whether they were identified in the project permit. If permittee fails to pay as required, the Town may revoke the permit upon prior notice to the permittee and may immediately exercise its rights under the construction security to recover its costs, including any costs it incurs to draw from the construction security. The Town may also draw upon any funds in the cash escrow and pursue any other options available to it under law to recover its costs including all costs incurred to seek such recovery.

### **Section 209. Performance Standards and Requirements.**

Permittees shall comply with the following standards, requirements, and limitations:

- (1) Road Crossings. Any underground utility facilities crossing a right-of-way shall be constructed without open cuts in the roadway when practicable. The permittee shall furnish detailed construction plans for all utility crossings within the right-of-way. The Town Engineer shall recommend to the Town Board whether the crossing(s) can be completed without disturbing the existing roadway. In the event an open road cut crossing is necessary, the permittee shall provide detailed cross sections of the existing Town road at the point of the crossing and detailed restoration plans. The Town Engineer shall recommend to the Town Board what detailed road cut restoration plans will be required as a condition of the road crossing.
- (2) Construction Access Route Signage. The permittee shall be required to post signs for all construction access, according to Town specifications, that clearly identify authorized construction access routes for materials delivery, equipment delivery, and construction employees. The permittee shall inform and instruct all contractors and subcontractors,

including equipment and material suppliers, of the restrictions for construction access and identify all authorized haul roads.

- (3) Heavy Construction Equipment Usage on Town Roads. The operation of heavy construction equipment on Town roads including, but not limited to, backhoes, cranes, and bulldozers, shall be prohibited, except as specifically authorized in the project permit.
- (4) Construction Inspection, Damage and Repair. Over the course of the project, the Town shall monitor and inspect all right-of-ways used by the permittee, as well as the right-of-ways not identified in the project permit, as needed to determine the impacts from the project. In the event any Town right-of-way is damaged by the permittee's construction or hauling activities, the permittee shall be liable for the cost of repair and restoration of the right-of-ways including, but not limited to, sub-grade correction, base repair, re-surfacing, culvert replacement, bridge repair, and ditch restoration.
- (5) Obstructions Prohibited. No equipment, materials, vehicles, or facilities related to the project shall be placed, parked, or otherwise located within a right-of-way in a way that obstruct the maintenance or safe pedestrian or vehicular usage of the right-of-ways.
- (6) Parking and Loading. Vehicle parking and loading and unloading of vehicles related to the project is prohibited within the right-of-ways in areas unless expressly allowed in the project permit.
- (7) Road Use Agreement. If a road use agreement is required by the Town, the permittee shall be required to comply with the terms, conditions, and standards set out in such agreement in addition to the standards and requirements of this Article.

#### **Section 210. Revocation of Permit.**

The Town may revoke a project permit if the permittee substantially breaches any condition, term, or standard established by statute, rule, regulation, ordinance, the project permit, this Article, or in the road use agreement.

- (1) Substantial Breach. A substantial breach by permittee shall include, but shall not be limited to, the following:
  - (a) The violation of any material provision of the project permit, including the road use agreement;
  - (b) An evasion or attempt to evade any material provision of the project permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the Town or its citizens;
  - (c) Any material misrepresentation of fact in the application for a project permit;

- (d) The failure to complete the required work in a timely manner or in a way that does not comply with the required standards; or
  - (e) The failure to correct, in a timely manner, work that does not conform to a condition indicated in an order issued by the Town.
- (2) Written Notice of Breach. If the Town determines the permittee has committed a substantial breach, it shall provide the permittee written notice of any such breach that describes the violation and orders the breach to be corrected by a certain date. If the permittee fails to fully come into compliance by the date indicated, the Town Board may act to revoke the project permit. The revocation shall be in writing and supported by written findings establishing the reasonableness of the decision. The Town shall provide the permittee a copy of the revocation and the permittee shall be required to immediately cease all work, construction traffic, and hauling within the Town's right-of-ways. If the breach is corrected, or a new project permit is issued after revocation, the Town may, at its discretion, place additional or revised conditions on the permit to mitigate and remedy the breach, or to minimize the potential reoccurrence of the same or similar breach.
- (3) Response to Notice of Breach. Within 48 hours of receiving notification of the breach, permittee shall provide the Town with a plan, acceptable to the Town, that will cure the breach. Permittee's failure to so contact the Town, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.
- (4) Reimbursement of Town Costs. If a permit is revoked, the permittee shall also reimburse the Town for the Town's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

## **ARTICLE THREE GENERAL PROVISIONS**

### **Section 300. Application of Articles.**

The provisions of Article One of this Ordinance generally apply to large utility projects except to the extent they contradict an express provision of Article Two. Right-of-way users regulated under Article One are not required to comply with the requirements of Article Two, except to the extent they engage in a large utility project.

### **Section 301. Authority.**

As the road authority for Town right-of-ways, the Town Board has the authority and responsibility to provide for safe and efficient local roadways and to establish regulations governing the use and maintenance its right-of-ways. This Ordinance is adopted consistent with that authority as well as the authority provided the Town Board pursuant to 1997 Session Laws, Chapter 123, Minnesota Statutes, sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the “Act”), Minnesota Statutes, sections 164.36, 169.832, 169.87, and the other laws governing applicable rights of the Town and users of the right-of-way. This Article shall be interpreted consistent with those statutes as well as with Minnesota Rules, parts 7819.0050 – 7819.9950 where possible. This Article shall not be interpreted to limit the regulatory and police powers of the Town to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

### **Section 302. Delegation.**

The Town Board may delegate one or more of the tasks to be performed by the Town under this Ordinance to the Town Representative, Town Engineer, or such other person as the Town Board determines is appropriate.

### **Section 303. Penalties and Enforcement.**

Any person who violates or fails to comply with any provision of this Ordinance, or who makes false statements on any application materials, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine, jail, or both as specified in Minnesota Statutes, section 609.02, subdivision 3. The Town may elect to criminally prosecute a violation of this Ordinance or pursue a civil remedy to prevent, enjoin, correct, or abate a violation. Criminal prosecution of a violation shall not bar the Town from also pursuing a civil remedy, just as pursuit of a civil remedy does not bar criminal prosecution of a violation. Nothing in this Ordinance shall be interpreted as limiting the Town’s options for acting to prevent a violation, enforce this Ordinance, or seek relief from a violation.

### **Section 304. Severability.**

If any portion of this Ordinance is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and

such holding shall not affect the validity of the remaining portions thereof. Nothing in this Ordinance precludes the Town from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

**Section 305. Effective Date.**

This Ordinance shall be effective upon its passage and the first day of publication.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2014.

**BY THE TOWN BOARD**

\_\_\_\_\_  
Town Chairperson

Attest: \_\_\_\_\_  
Town Clerk

**HAMPTON TOWNSHIP**  
**DAKOTA COUNTY, MINNESOTA**  
Ordinance No. 2021- 01

**AN ORDINANCE ADOPTING AN UPDATED  
ZONING FEE SCHEDULE FOR THE TOWN**

The Board of Supervisors of the Town of Hampton ordains:

**Article I. Schedule Adopted.** The attached zoning fee schedule is hereby adopted. The fees contained in the schedule replace any fee amounts previously adopted by the Town Board on the same item.

**Article II. Not Codified.** This ordinance is transitory in nature and shall not be codified. The zoning fee schedule established hereby shall be placed on the Town's website and shall be available for inspection at the Town Hall during usual office hours.

**Article III. Zoning Fees.** The Town is authorized by Minnesota Statutes, section 462.353, subdivision 4 to impose fees to offset its costs to administer and enforce its zoning ordinance. The zoning fees the Town collects shall be used to offset the Town's costs related to the administration and enforcement of its zoning ordinance and will not be transferred or used for purposes unrelated to planning and zoning.

**Article IV. Reasonableness.** The Town Board determines the fees established on the attached zoning fee schedule are fair, reasonable, proportionate, and have a nexus to the actual costs the Town incurs related to providing the services to which they relate.

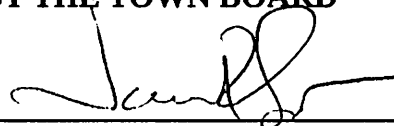
**Article V. Collection.** The Town may refuse to process any request for failure to submit all required fees and any required escrow amounts. All fees established in the attached zoning fee schedule constitute services the Town may, if unpaid, collect pursuant to Minnesota Statutes, section 366.012 by certifying the amount to the county auditor for collection together with the property taxes imposed on any property the person owns in the state, or through any other method available to the Town under law.

**Article VI. Effect.** The attached zoning fee schedule replaces the Town's previous zoning fee schedule, which is hereby repealed. Any other fees the Town established, but which are not reflected on the schedule, remain in full force and effect.

**Article VII. Effective Date.** This ordinance is effective upon the first day of publication and applies to any applications submitted, or requests for a service made, on or after the effective date.

Adopted this 16TH day of FEBRUARY 2021.

**BY THE TOWN BOARD**



Chairperson

Attest:   
Clerk

**HAMPTON TOWNSHIP FEE SCHEDULE  
ZONING ORDINANCE FEES**

<b>Request</b>	<b>Non-Refundable Fee</b>	<b>Escrow (1)</b>
Driveway Access Permit	\$100	\$2,000
Land Disturbing Activity Permit	\$100	\$2000
Animal Feedlot Registration	\$100	N/A
Mineral Extraction Permit	\$200	\$10,000 (2)
Animal Release Permit	\$25 First Impoundment \$50 Second Impoundment \$75 Third Impoundment	N/A
Reclaim Animal from Pound	\$25 + Actual Maintenance Costs	N/A
Euthanized Animal	\$75	N/A
Animal Clean Up	\$50	N/A
Sewage Sludge Application	\$150	N/A
ISTS/SSTS (Septic System)	\$350	N/A
Zoning Amendment	\$100	\$2000
Conditional Use Permit	\$100	\$2000
Interim Use Permit	\$100	\$2000
Variance	\$100	\$2000
Ag Building Zoning Permit	\$140	N/A
Building Permit	See attached list of permit fees	

(1) **Escrow:** Applicants are required to escrow the indicated amount of cash with the Township and sign an escrow agreement. Applicants are responsible for fully reimbursing the Township for all professional costs it incurs related to the request. The Township uses the escrowed funds to reimburse itself for these costs and if the escrow is not sufficient to fully reimburse the Township the applicant will be billed or required to submit additional funds to be placed in escrow. Any unreimbursed amounts constitute a service charge the Township will certify to the County Auditor for collection on the applicant's property as provided in Minn. Stat. § 366.012.

(2) **Financial Guarantee:** The holder of an extraction permit is required to maintain a financial guarantee in a form acceptable to the Town Board of \$5,000 for every acre authorized in the permit. The financial guarantee shall be used to guarantee compliance with the Town's ordinance and development agreement.



## BUILDING PERMIT FEE SCHEDULE

Valuation\* Based Permit Fee Calculation Schedule

### Total Valuation Permit Fee

VALUATION	PERMIT FEE
\$1.00 to \$500.00	\$35.00
\$501.00 to \$2,000.00	\$35.00 for the first \$500.00 plus \$3.05 for each additional \$100.00 or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$81.25 for the first \$2,000.00 plus \$14.00 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$403.25 for the first \$25,000.00 plus \$10.10 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$655.75 for the first \$50,000.00 plus \$7.00 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$1005.75 for the first \$100,000.00 plus \$5.60 for each additional \$1,000.00 or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$3245.75 for the first \$500,000.00 plus \$4.75 for each additional \$1,000.00 or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$5620.75 for the first \$1,000,000.00 plus \$3.15 for each additional \$1,000.00 or fraction thereof
<b>PLAN CHECK FEE</b>	65% of the Permit Fee for Residential and Commercial Projects
<b>STATE SURCHARGE FEE</b>	Schedule is based on the currently adopted State Surcharge Table

- \* Pursuant to MN Rules Chapter 1300.0160 subpart 3, Building permit valuations shall be set by the Building Official. For determining the permit valuation, the Building Official will use the supplied valuation with a minimum value as calculated by the current Building Valuation Data Table, published each May by the Department of Labor and Industry and other data, as needed, for projects not otherwise specified.

<b>OTHER INSPECTIONS AND FEES AS PER BUILDING INSPECTION CONTRACT</b>	<b>FEE</b>
Inspections outside of normal business hours; minimum two hours	\$80.00 per hour
Inspections for which no fee is specifically indicated, minimum one half hour	\$80.00 per hour
<b>Re-Inspection Fee:</b>	
Residential	\$80.00 each
Ag Building	\$105.00 each
Commercial	\$125.00 each
Additional plan review required by changes, additions, or revisions to approved plans, minimum one half hour	\$60.00 per hour
Miscellaneous and special services	\$60.00 per hour
Special Investigation Fee (work started without obtaining a permit) – applied whether permit is issued or not	100% of permit fee
Pre Move-in home:	\$175.00
Pre Move-in accessory structure	\$125.00
Move-in Home	\$275.00
Move-in accessory structure	\$200.00
<b>Permit Cancellation Fee:</b>	
If reviewed:	Plan review fee + 20% of permit fee
If issued:	Permit fee – Township costs
Permit Renewal within six months of expiration	50% of permit fee (if no changes to the plans, code, structure)
Demolition permits are based on valuation and require plan review	\$80.00 minimum, plan review 65% of permit fee
Duplicate permit card	\$25.00
Photocopy charges related to plan review of a permit	\$0.25 per side per 8x11 page
Manufactured Home Installation	\$275.00
Contractor License look-up fee and lead certification look-up fee	\$5.00 each
Refunds	75% of building permit fees on projects not yet started (within 60 days of permit issued by township). No refund on plan review fees or maintenance permits.
<b>RESIDENTIAL PLUMBING PERMIT FEES:</b>	
Plumbing Permits	\$80.00 plus state surcharge

<b>OTHER INSPECTIONS AND FEES AS PER BUILDING INSPECTION CONTRACT</b>	<b>FEE</b>
<b>RESIDENTIAL HEATING, AIR CONDITIONING, HOT WATER HEATER &amp; GAS PIPING PERMIT FEES:</b>	
Mechanical Permits:	\$80.00 plus state surcharge
Gas Line Air Test	\$10.00 per line, \$20.00 minimum with permit
Gas Line only	\$80.00 plus state surcharge
Fire Place Insert	See above (mechanical permits)
Fire Place – Masonry	Based on valuation
<b>RESIDENTIAL FIXTURE MAINTENANCE*:</b>	\$49.50 plus state surcharge (this permit is for replacing a previously existing fixture where only disconnecting and reconnecting of existing pipes or ducts is to be done). This fee includes one inspection trip.
* Examples of Fixture Maintenance Permits: sink, faucet, water softener replacement	
<b>RESIDENTIAL MAINTENANCE PERMIT FEES:</b>	
Re-Roof	\$80.00 plus state surcharge
Re-Side	\$80.00 plus state surcharge
Re-Window – more than three (3) windows based on valuation	Minimum of \$80.00 plus state surcharge if replaced with same size. Any size change requires a regular building permit.
Re-door/garage door	\$80.00 plus state surcharge. Any size change requires a regular building permit.
<b>NON-RESIDENTIAL (IBC) PROJECT FEES:</b>	
Building permit fees are based on valuation, including re-roof, re-side, plumbing, mechanical and fire projects	Minimum of \$80.00 plus state surcharge
Demolition Projects, based on valuation and require a plan review (65% of permit fee)	Minimum of \$150.00 plus state surcharge

***All permits that are “Based on Valuation” will be reviewed by the Inspection Department. Permit Valuations will be based on the supplied construction value with a minimum of the calculated value from the approved building department valuation schedule.***