

HELGA TOWNSHIP LAND USE ORDINANCE

HELGA TOWNSHIP HUBBARD COUNTY, MINNESOTA

Ordinance No. _____

Adopted _____, 2016

Originally Adopted
September 22, 2005

Amended and Readopted
December 21, 2010
(Ord. No. O-12-21-2010-1)

Amended and Readopted
_____, 2016
(Ord. No. _____)

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I: TITLE AND AUTHORITY	1
ARTICLE II: PURPOSE	1
ARTICLE III: ZONING DISTRICT AND ALLOWED USES.....	1
Section 1. Agricultural/Rural Residential (A/R) District	1
Section 2. Allowed Uses.....	1
Section 3. Prohibited Uses	2
Section 4. Substantially Similar Uses	2
Section 5. Uses Allowed by Statute.....	2
ARTICLE IV: GENERAL REGULATIONS	
Section 1. General Standards	3
Section 2. Parking Standards	4
Section 3. Signage Standards	5
ARTICLE V: PERFORMANCE STANDARDS	
Section 1. Excavation of Mineral Materials.....	6
Section 2. Home Occupations	6
Section 3. Essential Services	7
Section 4. Multifamily Housing	7
ARTICLE VI: SUBDIVISION OF LANDS	
Section 1. Restrictions.....	7
Section 2. Administrative Subdivisions	7
Section 3. Platted Subdivisions	8
Section 4. Roads and Easements Dedicated by Plat	8
ARTICLE VII: NONCONFORMING USES, STRUCTURES AND LOTS	
Section 1. Nonconforming Uses and Structures	9
Section 2. Nonconforming Lots	10
ARTICLE VIII: ADMINISTRATION	
Section 1. Helga Township Planning Commission	10
Section 2. Helga Township Board of Appeals and Adjustments	11
Section 3. Land Use Administrator	11
Section 4. Fees	12
Section 5. Land Use Permits	13
Section 6. Interim Use and Conditional Use Permits	13
Section 7. Variances	15
Section 8. Appeals	17

Section 9. Amendments	18
ARTICLE IX: GENERAL PROVISIONS	
Section 1. Jurisdiction	18
Section 2. Abrogation and Greater Restrictions	18
Section 3. Minimum Requirements and Strictness	18
Section 4. County Regulations	19
Section 5. Compliance.....	19
Section 6. Prior Zoning Ordinances.....	20
Section 7. Applications	20
Section 8. Unpaid Taxes or Charges.....	20
Section 9. Severability	20
Section 10. Performance Bonds	20
Section 11. Rules of Interpretation	21
Section 12. Intent	22
ARTICLE X: ENFORCEMENT	
Section 1. Violations	22
Section 2. Enforcement	22
Section 3. After the Fact Applications.....	23
ARTICLE XI: DEFINITIONS	
Section 1. Definitions.....	23

Helga Township Land Use Ordinance

The Board of Supervisors of the Town of Helga ordains:

ARTICLE I TITLE AND AUTHORITY

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

ARTICLE II PURPOSE

The purpose of this Ordinance is to ensure, promote, and protect the health, safety, and general welfare of present and future inhabitants of Helga Township by securing the most appropriate use of the land, by preventing undesirable uses of the land, by placing limits on nonconforming uses, by preventing undue concentration of the population, by providing for the orderly development of undeveloped areas by regulating structures and the uses of land, by encouraging and facilitating adequate and economical provision of transportation, and other public facilities, and by otherwise protecting and preserving the attractive, stable, and wholesome environment of Helga Township. The Ordinance establishes regulations to implement these purposes and prescribes penalties for violating its provisions.

ARTICLE III ZONING DISTRICT AND ALLOWED USES

SECTION 1. AGRICULTURAL/RURAL RESIDENTIAL (A/R) DISTRICT. Helga Township shall have a single land use district for the purposes of this Ordinance, which shall be called the Agricultural/Rural Residential (A/R) District. All land within Helga Township outside the jurisdictional boundaries of a city shall be placed within the A/R District. The Town Board shall adopt a Land Use Map, which is hereby incorporated into this Ordinance by reference. A copy of the Land Use Map is on file with the Town Clerk. The Town Board shall be responsible for interpreting the Land Use Map.

SECTION 2. ALLOWED USES. The following uses are allowed within the A/R District upon obtaining all required permits.

- A. **Permitted Uses.** The following uses are allowed in the Agricultural/Rural Residential District without the issuance of a conditional use permit or an interim use permit, though a land use permit may be required:
1. Farms and agricultural uses;
 2. Forestry including the growth, harvest and sale of trees.

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

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

1. Commercial mining.

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

1. Class B home occupations
2. Two-family and multi-family dwellings;
3. Religious institutions;
4. Public buildings;
5. Communication towers;
6. Commercial uses;
7. Industrial uses; and
8. Signs exceeding twenty-four square feet along state highways.

SECTION 3. PROHIBITED USES. Only those uses specifically listed in this Ordinance as being allowed within a particular district as a permitted, conditional, interim, or accessory use may occur within that district. All other uses, except those expressly found by the Town Board to be substantially similar to a listed use allowed in the district or are allowed by statute as provided herein, are prohibited within the district. No use shall be considered substantially similar to an allowed use unless the Town Board acts at a meeting to find the specific use is substantially similar to an allowed use in the same district as provided herein.

SECTION 4. SUBSTANTIALLY SIMILAR USES. An owner proposing to undertake a use it believes is substantially similar to a use expressly allowed by this Ordinance in the same district may submit an application to the Town. Such application shall be on the form supplied by the Town and it must fully explain the proposed use and how it is similar to the allowed use. The Town Board shall act on complete applications to determine whether the proposed use is substantially similar to an allowed use in the same district. If the Town Board does find the proposed use is substantially similar, it shall also determine whether the use shall be deemed a permitted, interim, conditional, or accessory use for the purpose of this Ordinance. The owner must then apply for any required permits based on the Town Board's classification of the use and any other applicable regulations. If the Town Board finds the proposed use is not substantially similar to an allowed use, the owner may submit a separate application to seek an amendment to this Ordinance to expressly allow the use within a district.

SECTION 5. USES ALLOWED BY STATUTE. The legislature has adopted various provisions by statute requiring local governments to treat certain uses as permitted or conditional uses within their respective jurisdictions for the purposes of zoning regulations. Notwithstanding the general prohibition contained herein of uses not expressly allowed by this Ordinance, this Ordinance shall be interpreted as allowing those uses the legislature expressly requires the Town to allow. Such uses shall be classified as provided in the legislative mandate and shall

only be allowed in those areas described in the applicable statute, and then only to the extent and scope as prescribed in the statute. For example, Minnesota Statutes, section 462.357, subdivision 7 requires a licensed day care facility serving twelve (12) or fewer persons to be considered a permitted single family residential use of property. As such, this Ordinance shall be interpreted as allowing that specific use as a permitted residential use, but only up to a capacity of twelve (12) persons. A proposed use that exceeds the scope described in the statute shall not be allowed unless the expanded use is expressly allowed in the particular zoning district by this Ordinance. Furthermore, if the statute indicates the use is to be allowed as a conditional use, the use may only occur upon the submission of an application and receipt of a conditional use permit from the Town. All mandated uses shall obtain a land use permit and all other permits and permissions as required by this Ordinance and all other applicable laws.

ARTICLE IV
GENERAL REGULATIONS

SECTION 1. GENERAL STANDARDS. Unless specifically indicated otherwise, the following standards shall apply in all zoning districts.

- A. **Lot Size:** The minimum deeded lot size shall be 5 acres, including for establishing a single family dwelling. Any portions of the lot covered by right-of-ways or that were acquired by the public by eminent domain shall be included in the determination of total lot size, provided sufficient area remains on the lot to accommodate a septic system and to comply with the other requirements of this Ordinance and all applicable federal, state, and local laws, rules, regulations, and ordinances.
- B. **Lot Width:** The minimum lot width shall be 300 feet.
- C. **Lot Frontage Single Family Homes:** A lot shall have at least 75 feet of fronting on a public road and such frontage must be able to accommodate a driveway that is setback from the side of the driveway surface to the nearest side property line at least 15 feet in order to construct a single family home on the lot.
- D. **Lot Frontage Multifamily Housing:** A lot shall have at least 100 feet of fronting on a public road and such frontage must be able to accommodate a driveway that is setback from the side of the driveway surface to the nearest side property line at least 15 feet in order to construct multifamily housing on the lot.
- E. **Building Height:** A maximum building height of 35 feet is allowed.
- F. **Setback Provisions:** All structures, except those specifically exempted by the provisions of this Ordinance, shall meet the setback requirements prescribed in this section. All setbacks shall be measured from the appropriate lot line deeded and/or recorded, road right-of-way, easement lines or ingress/egress. Where lots have double frontage, the required setback shall be provided on both roads.

District	Front Setback	Rear Setback	Side Setback
Agricultural/Rural Residential	75 feet from state highway / 50 feet from county or town road	10 feet	10 feet

Temporary shelters for persons waiting for a bus or similar uses shall be excepted from this provision if constructed and located so as to not interfere with snow plowing or road maintenance.

- G. **Land Use Permit Required:** A land use permit shall be required prior to the construction of any 241 square feet or larger freestanding building with roof or any 101 square feet or larger addition to any existing building. All decks, buildings or additions shall meet minimum setback requirements. The Town has not adopted the state building code and the land use permits required by this Ordinance are not issued pursuant to the State building code. Nothing herein shall be construed as the Town Board adopting or administering the state building code.
- H. **Driveway Approach Permit Required:** In accordance with Minnesota Statutes, section 160.18 and this Ordinance, a driveway approach permit shall be required prior to the construction, reconstruction, or substantial improvement of any driveway approach connecting property to a Town road. The driveway approach permit may be combined with a land use permit if the construction of both a building and a driveway approach take place as part of the same project. A driveway approach permit shall be issued upon a finding that the proposed driveway approach provides for the adequate drainage of surface waters, will not interfere with road maintenance, provides for adequate sight distances, will not unreasonably interfere with public travel, and will not negatively impact neighboring properties.
- I. **Sanitary Specifications:** Well and septic system requirements are regulated by the State and Hubbard County.

SECTION 2. PARKING STANDARDS. The following performance standards related to parking shall be complied with in addition to any other parking requirements the Town may include as a condition on a conditional use or interim use permit:

- A. The following minimum number of parking spaces shall be provided:
 - 1. Two parking spaces per dwelling unit;
 - 2. One and a half spaces per each motel or hotel unit;
 - 3. One space per 3 seats in the general assembly room of religious institutions, schools, and other assembly places;
 - 4. One space per 200 square feet of office space;
 - 5. One space per 200 square feet of retail space; and
 - 6. One space per 3 seats in restaurants.
- B. The minimum size required for a parking space is 9 feet x 18 feet;
- C. Parking lots shall be setback at least 15 feet from a property line;
- D. Temporary parking may be conditionally permitted in a building setback area, except not in the first twenty (20) feet of setback abutting a road right-of-way; and

- E. All required parking spaces shall be provided on the same lot as the principal structure unless expressly allowed otherwise in a conditional use or interim use permit issued for the property.

SECTION 3. SIGNAGE STANDARDS.

- A. **Allowed Signs:** Signs are generally allowed, within some exceptions as noted below, within the Town as an accessory use to a principal use on the property, except that no sign visible from a Town road, County highway, or County road shall exceed six (6) feet in height or contain more than twenty-four (24) square feet in area. A sign visible from a state highway can exceed twenty-four (24) square feet in area with approval of a conditional use permit. Signs visible from state highways shall also comply with the requirements of Minnesota Statutes, Chapter 173, to the extent applicable. For the purposes of this Section, a sign shall be considered visible from a particular public right-of-way if the face of the sign is clearly visible by a motorist traveling on the right-of-way in at least one direction.
- B. **General Sign Location, Design and Construction Requirements:**
 - 1. **General requirements.** All signs shall conform to the requirements of this Section. All signs shall be properly secured, supported and braced and shall be kept in good repair so that public safety and traffic safety are not compromised. Signs visible from a street shall be designed to be highly legible so as to not distract drivers.
 - 2. **Maintenance.** All signs shall be properly maintained. The area on the property around the sign shall be properly maintained and clear of brush, weeds, debris, rubbish and other obstacles. All burned-out light bulbs or damaged panels on a sign shall be immediately replaced. Exposed surfaces must be kept clean and painted if paint is required. Defective or broken parts must be immediately replaced. The Land Use Administrator shall order the repair or removal of any sign which is broken, damaged or substantially deteriorated.
 - 3. **Sign Copy.** All sign copy must be fastened securely to the sign face and maintained on a regular basis. Any missing sign copy must be replaced immediately. Any sign copy that is outdated must be removed.
 - 4. **Location.** No sign shall be located so as to obscure any existing sign, obstruct sight distances at a public road intersection, or that in any way renders dangerous for travel a public road. No sign, other than a sign placed by authorized government officials, shall be erected or temporarily placed within any road right-of-way, public property, or upon any public easement. No sign shall be attached or placed upon any building in such a manner as to obstruct any window or door or fire escape.
 - 5. **Illumination.** Illuminated signs, if permitted by this Ordinance, shall be backlit or indirectly lit and shall avoid direct casting of light upon properties located in the Agricultural-Rural Residential District, upon public waters or onto any public right-of-way. Illuminated signs are subject to the electrical requirements of the electrical code of the State of Minnesota.

- C. **Prohibited Signs:** Unless otherwise specifically permitted by this Ordinance, the following types of signs shall be prohibited within the Town:
1. Abandoned signs;
 2. Roof signs;
 3. Signs that emit sound;
 4. Off-premises signs visible from a Town road, County road, or County Highway; and
 5. Signs painted directly on the outside wall or face of a building, fence, rock, or similar structures or features.

ARTICLE V PERFORMANCE STANDARDS

SECTION 1. EXCAVATION OF MINERAL MATERIALS. The use of land for the excavation and removal of mineral materials, top soil, gravel, or other earthen material is not permitted within the Town unless done pursuant to an interim use permit. As a condition of granting the interim use permit, the Town may impose appropriate standards for reclamation of the land subject to the excavation so as to ensure its restoration to its original condition insofar as possible after removal of the minerals. To ensure this restoration, the Town may require a performance bond for the construction of roads and other conditions as it deems appropriate.

Notwithstanding any other provision in this Ordinance, a mining operation is a permitted accessory use in the Agricultural/Rural Residential District provided that the land owner does not remove more than 300 cubic yards of materials within a year. Additional yardage will require an interim use permit. The use of a crusher, pulverizer, or a screener as part of mining operation is prohibited in the Agricultural/Rural Residential District, except upon receipt of an interim use permit from the Town allowing the mining operation to be converted to a commercial mining operation as provide herein.

SECTION 2. HOME OCCUPATIONS. All home occupations established on or after the effective date of this Ordinance shall comply with the requirements of this Section.

- A. **Purpose:** It is the purpose of this Section to provide for the use of the home as a place for the operation of a business or profession either as a conditional use or a permitted use, provided the occupation is clearly secondary to the principal use of the dwelling as a residence.
- B. **Class A Home Occupations:** Class A home occupations are those which only employ persons residing within the home and do not require additional employees, separate employee or customer parking, and does not generate a noticeable increase in traffic, noise or odor. Such home occupations as architects, artists, clergymen, clothing alterations, domestic crafts making, and similar uses shall be classified as Class A home occupations. Class A home occupations are permitted uses in the Agricultural/Rural Residential District, and do not require a Conditional Use Permit under this Ordinance.
- C. **Class B Home Occupations:** Class B home occupations are those which have the potential for generating a noticeable increase in traffic, noise, odor, requires additional parking, or involves employees not residing in the home. Home occupations such as barber shops, beauty salons, repair shops, light manufacturing, clothing shops, bed-and-breakfast inns, museums, animal hospitals, kennels, dog care centers, schools, and

similar uses conducted within a dwelling or accessory structure shall be classified as Class B home occupations. Class B home occupations are classified as a conditional use in the Agricultural/ Rural Residential District and shall require a Conditional Use Permit from the Town.

D. **Performance Standards:** All home occupations shall conform to the following standards:

1. Conducting the home occupation shall not require alterations to the interior or exterior of the residence which substantially alters the appearance of the dwelling as a residence. However, the entrance to the space devoted to a home occupation may be within the dwelling.

SECTION 3. ESSENTIAL SERVICES. The erection, construction, alteration or maintenance of essential services, including, but not limited to power lines, telephone lines, sewer, water, gas, and cable TV is a permitted use in every district, subject to applicable laws and ordinances related to the placement of facilities in public right-of-ways. To the extent technologically feasible, essential services shall, to the greatest extent reasonable possible, be located underground so as to eliminate overhead wires, poles, and other unsightly structures and equipment.

SECTION 4. MULTIFAMILY HOUSING. The following regulations/requirements shall apply to all future multi-family development:

- A. Minimum lot size of 5 acres inclusive of road right-of-way per dwelling unit;
- B. Must maintain a minimum of 25% green space;
- C. 35 foot maximum dwelling height from highest natural existing grade at building location;
- D. Two parking spaces per dwelling unit, not including garage, shall be provided;
- E. Lighting must not interfere with traffic and/or neighbors;
- F. All multifamily housing must meet or exceed all applicable codes and ordinances;
- G. Each building must have public road access;
- H. Property owners are responsible for building upkeep and maintenance; and
- I. An onsite sewage treatment system permit must be obtained from Hubbard County before a land use permit is issued.

ARTICLE VI **SUBDIVISION OF LANDS**

SECTION 1. RESTRICTIONS. No subdivision of land in the Town shall be allowed unless it is

done in accordance with the laws of the State of Minnesota, the Hubbard County Ordinances, and this Ordinance.

SECTION 2. ADMINISTRATIVE SUBDIVISIONS. Owners subdividing property pursuant to the Administrative Subdivision procedure as set out in Section 4 of the Hubbard County Subdivision Ordinance (Ord. No. 35) must obtain approval for the subdivision from the Town to ensure the proposed division does not result in a violation of the provisions of this Ordinance. To seek approval, the owner shall submit to the Town a copy of the completed County application and related materials required under by the County's ordinance. The Town may require the owner to submit additional information as needed to assist the Town to fully understand and evaluate the proposed subdivision. The Land Use Administrator shall review the materials and may either act on the proposed Administrative Subdivision or forward it to the Town Board with a recommendation. The Town Board shall make the final decision on those Administrative Subdivisions forwarded to it by the Land Use Administrator. The Town will provide the owner notice of its decision. If the Town denies an Administrative Subdivision, it will provide a written explanation of the reasons for the denial. No Administrative Subdivision shall be allowed if it would result in the creation of a nonconforming lot.

SECTION 3. PLATTED SUBDIVISIONS. Owners subdividing property pursuant to the Platting procedure as set out in Section 5 of the Hubbard County Subdivision Ordinance (Ord. No. 35) must obtain approval for the plat and otherwise comply with the provisions of this Section.

- A. **Preliminary Plat Approval:** Pursuant to Minnesota Statutes, section 505.09, subdivision 1a, the County is prohibited from approving a plat of land within the Town unless the Town Board first approves the laying of the streets and other public ways shown on the plat. To seek approval, the owner shall submit to the Town a copy of the completed County application and related materials required under by the County's ordinance for the preliminary plat. The application materials shall be submitted to the Town before the owner seeks final plat approval from the County. The Town may require the owner to submit additional information as needed to assist the Town to fully understand and evaluate the proposed preliminary plat. The Township Planning Commission shall review the materials and make a recommendation to the Town Board regarding the proposed preliminary plat. If directed by the Town Board, the Planning Commission will hold a public hearing on the proposed preliminary plat before making its recommendation. The hearing shall be preceded by at least ten days' published notice. The Town Board will review the recommendation of the Township Planning Commission and decide whether to approve the preliminary plat. If the Town Board denies the preliminary plat, it will provide a written explanation of the reasons for the denial. The Town Board's approval of the preliminary plat does not constitute approval of the plat as required by Minnesota Statutes, section 505.09, subdivision 1a. No such approval can be obtained until the final plat is presented to the Town Board for approval.
- B. **Final Plat Approval:** The owner shall submit its final plat to the Town for review and approval by the Town Board. The Township Planning Commission shall review the materials and make a recommendation to the Town Board regarding the proposed final plat. If directed by the Town Board, the Planning Commission will hold a public hearing on the proposed final plat before making its recommendation. The hearing shall be preceded by at least ten days' published notice. The Town Board will review the recommendation of the Township Planning Commission and decide whether to approve the final plat. The Town Board may condition its approval on the Owner entering into a development agreement or road agreement with the Town. If the Town Board denies

the final plat, it will provide a written explanation of the reasons for the denial. A vote by the Town Board approving the final plat shall authorize the chairperson and clerk to sign the final plat documents once they are prepared.

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

ARTICLE VII NONCONFORMING USES, STRUCTURES, AND LOTS

SECTION 1: NONCONFORMING USES AND STRUCTURES.

- A. **Regulation of Nonconforming Uses and Structures:** A nonconforming use may not be expanded, enlarged, intensified, replaced, structurally changed or relocated except as needed to make it a conforming use under this Ordinance. Prohibited expansion, enlargement or extension shall include anything that increases the intensity of the use including, but not limited to, a change to a more intense nonconforming use, a physical expansion of the existing use that increases the height, volume or area dimensions of the nonconforming use, or an addition or expansion to an existing structure that creates, expands, or increases the nonconforming aspect, feature, or condition of the structure. Nothing in this Ordinance prohibits regular maintenance activities or making reasonable improvements to improve the safety or livability of an existing structure. Furthermore, an owner may be allowed to enlarge a nonconforming structure without obtaining a variance if the enlargement does not increase or intensify the aspect of the structure that makes it nonconforming. For example, an owner may be allowed to attach a deck to a home that is nonconforming because it is located within a setback area, if the deck is located entirely outside of the setback areas and otherwise complies with this Ordinance.
- B. **Discontinuation of Nonconforming Uses and Structures:** A nonconforming use must be discontinued, and any future use of the land must comply with this Ordinance, if any of the following occurs: (1) the use is discontinued for more than one year; (2) the nonconforming structure is removed; or (3) the nonconforming structure is destroyed by no less than 50 percent of the structure's market value as indicated in the records of the County Assessor at the time of damage and no building permit has been applied for within 180 days of when the property was damaged. When a nonconforming structure in

a shoreland area as identified by the County with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, the structure setback may be increased by the Township or County, if practical. In that event, conditions will be placed on the building permit in order to mitigate created impacts on adjacent properties and the water body.

- C. **Public Nuisances:** Nonconforming uses or structures which are declared by the Town to be public nuisances shall not be allowed to continue as legal nonconforming uses or structures.
- D. **Nonconformities in Floodplains:** No repair, replacement, maintenance, improvement, or expansion of a nonconforming use or structure in a floodplain area shall be allowed if such activity would jeopardize the property's continued eligibility in the National Flood Insurance Program, would increase flood damage potential, or would increase the degree of obstruction to flood flows in the floodway.
- E. **Nonconformities in Shorelands:** Shoreland areas are regulated by the County and nonconforming shoreland lots are subject to the provisions of the County ordinance addressing nonconformities.

SECTION 2: NONCONFORMING LOTS.

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

ARTICLE VIII **ADMINISTRATION**

SECTION 1: HELGA TOWNSHIP PLANNING COMMISSION. The Town Board previously established the Helga Township Planning Commission, which is hereby reaffirmed as the Town's planning agency. The Planning Commission serves in an advisory capacity to the Town Board.

- A. **Composition:** The Planning Commission consists of up to five voting members, which may include one or more Town officers. A majority of members constitutes a quorum to conduct the Planning Commission's business. Each Planning Commission member, including the Chair and Vice-Chair, shall have one vote on all matters, acted upon by the Planning Commission. A member must be present at a meeting to vote.
- B. **Appointment, Vacancies and Removal:** The Town Board appoints the Planning Commission members. Vacancies occurring on the Planning Commission are filled by

Town Board appointment for the remainder of the term of the position. The Town Board may remove a Planning Commission member at any time with or without cause.

- C. **Term:** Planning Commission members are appointed for a term of 3 years and until a successor is appointed and qualifies. Terms expire on April 1st. Planning Commission members serve at the pleasure of the Town Board and may be removed by the Town Board at any time. The Town Board shall stagger the terms of Planning Commission members as it determines is appropriate to minimize the number of Planning Commission positions expiring in the same year.
- D. **Officers and Duties:** The Planning Commission shall appoint from among its members a Chair, Vice-Chair, and a Secretary. The Chair shall be the presiding officer for Planning Commission meetings and shall sign documents on behalf of the Planning Commission as needed. The Vice-Chair shall conduct the duties of the Chair in the Chair's absence. The Secretary shall provide notices, keep records of the Planning Commission's proceedings, and countersign the Chair's signature on Planning Commission documents.
- E. **Meetings:** The Planning Commission shall hold regular meetings as needed. The Chair or Vice-Chair, along with the consent of at least one other Planning Commission member, may call special meetings as needed to conduct the Planning Commission's business.
- F. **Planning Commission Powers and Duties:** The Planning Commission shall have the powers and duties provided it by Minnesota Statutes, chapter 462, those indicated in this Ordinance, and such other powers and duties as the Town Board may delegate to it. Unless directed otherwise by the Town Board, the Planning Commission shall be responsible for conducting such hearings as may be required by law or by this Ordinance to implement and administer the Town's official controls. The Planning Commission may adopt rules and procedures for conducting the business, provided such rules and procedures are consistent with the provisions of this Ordinance. The Planning Commission does not have the authority to hire professionals or to otherwise bind the Town to a contract.

SECTION 2: HELGA TOWNSHIP BOARD OF APPEALS AND ADJUSTMENTS. The Town Board previously established the Helga Township Board of Appeals and Adjustments, which is hereby reaffirmed. The Town Board shall serve as the Board of Appeals and Adjustments. It shall be the duty of the Board of Appeals and Adjustments to hear and act on requests for variances from the literal provisions of this Ordinance, and to hear and decide appeals where it is alleged there was an error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance. The Board of Appeals and Adjustments may adopt rules and procedures for conducting its activities, provided such rules and procedures are consistent with the provisions of this Ordinance. The Board of Appeals and Adjustments may conduct its business as part of a regular or special Town Board meeting.

SECTION 3: LAND USE ADMINISTRATOR. The Town Board, or its designees, shall serve as the Land Use Administrator for the purpose of administering and enforcing this Ordinance. The Land Use Administrator shall be the primary contact on matters regulated within this Ordinance and is responsible for receiving and reviewing applications, determining whether applications are complete, what information is needed to make them complete, assist with public hearings, issuing permits, conducting inspections, maintain records related to the administration and

enforcement of this Ordinance, issue written notifications of violations, issue cease and desist orders, issue stop work orders, and review all matters pertaining to the administration and enforcement of the regulations within this Ordinance. If the Town Board serves as the Land Use Administrator, it may delegate specific duties among the Town officers.

SECTION 4: FEES.

- A. **Non-Refundable Application Fee:** Applicants shall be required to pay an application fee when submitting an application under this Ordinance. Application fees shall be in the amount determined by the Town Board and are intended to defray the administrative costs of processing zoning requests.
- B. **Escrow:** In order to defray the additional costs the Town may incur to process a request made under this Ordinance, applicants may also be required to reimburse the Town for all consulting costs it incurs related to the particular request. Consulting costs include, without limitation, all attorney, planner, and engineering fees incurred related specifically to the request. If the Town determines at any time while receiving or processing a request that it will need to seek professional assistance to process a request, it may require an applicant to escrow cash with the Town in the amount determined by the Town Board or Land Use Administrator from which the Town will reimburse itself for the consulting costs it incurs. The applicant remains responsible for all such costs and shall promptly escrow additional funds if the Town Board or Land Use Administrator determines the existing escrowed amount will not be sufficient to fully reimburse the Town for its costs. Failure to promptly provide additional funds or to otherwise fully reimburse the Town for its consulting cost shall constitute a sufficient basis on which to delay the processing of a request or to deny a request.
- C. **Reimbursement in Full Required:** Upon the termination of an application, whether by approval, denial, withdrawal, or any other means, all costs incurred by the Town shall be immediately payable by the applicant. If no escrow was required, or if the Town's costs exceed the escrowed amount, the Town will provide the applicant a written statement of the amount to be reimbursed. The stated amount shall be paid in full to the Town within 30 days from the date of the written statement. If the escrowed amount exceeds the Town's costs, the excess shall be refunded to the applicant. No permits shall be issued, no construction or development shall commence, and no use of the property pursuant to the zoning request shall be made until all fees and costs are paid in full. All such unreimbursed amounts shall constitute a service charge due and payable to the Town. In the event that payment of the unreimbursed amounts is not made within a reasonable time after demand, the Town Board or Zoning Administrator may take such steps as are available to the Town under law to collect the unreimbursed amounts, including collection costs. The steps the Town may take to recover its costs include, but are not limited to, placing the amount on any property the person owns in Minnesota as a service charge pursuant to Minnesota Statutes, section 366.012, filing a lien upon the subject property or other property of the applicant pursuant to Minnesota Statutes, section 514.67, or taking such other action as may be deemed appropriate to obtain full reimbursement for the Town for all costs it incurs related to the application.
- D. **Fees Established:** The Town Board shall establish the amount of application fees and

such other fees and charges as provided by this Ordinance in a separate resolution or ordinance that shall be kept on file with the Town Clerk and the Land Use Administrator. The Town Board may also establish as part of such resolution or ordinance minimum escrow amounts, but the actual amount of the escrow required may be adjusted as needed based on the amount of professional costs the Town is likely to incur to process the particular request.

SECTION 5: LAND USE PERMITS. On or after the effective date of this Ordinance, no person shall erect a foundation, or change the exterior perimeter of a building vertically or horizontally, construct, move, alter, or place any building, structure, or part thereof, in a manner that increases the foot print by 101 square feet or more (excluding open air decks) without first obtaining a land use permit from the Town.

- A. **Exceptions:** No land use permit shall be required for any of the following:
1. Replacement of siding, doors, windows, or roof;
 2. Interior remodeling; or
 3. Replacement of any wells or septic systems, but well and septic system replacements permits must be obtained from Hubbard County.
- B. **Application:** Applications for a land use permit shall be signed by the applicant, or his/her authorized agent, and the property owner (if different) and filed with the Land Use Administrator in the form designated by the Town Board. The application shall be accompanied by the required application fee, a sketch describing the improvement and giving its dimensions, an estimate of the cost of said improvement, the location of the improvement in relation to adjoining boundary lines, right-of-way lines, existing buildings or structures, a description of the existing and planned uses of the land and buildings, a current fire number, a phone number and address where the applicant can be reached and such other information as may be required by the Town. If the applicant is proposing to construct a new dwelling, the application shall include a description of the location of the well, septic tank, distribution box, and drain field. If an application is not complete, the Land Use Administrator will provide the applicant written notice of what information is needed to complete the application. Incomplete applications will not be processed until the applicant provides the additional information and the Land Use Administrator deems the application complete.
- C. **Issuance:** The Land Use Administrator is authorized to issue land use permits upon the submission of a complete application and payment of the application fee, provided the Land Use Administrator determines the proposed work and resulting building or structure complies with this Ordinance. The applicant, not the Town, is responsible for accurately locating all property lines and complying with all applicable setbacks.
- D. **Penalties.** Any person who commences a land use activity which requires a land use permit without first having obtained such a permit from the Town shall be required to obtain an after-the-fact land use permit and pay a multiple of the permit fee as indicated in the Town's current fee schedule.
- E. **Duration:** All land use permits are valid for one (1) year from the date the permit is

issued. If construction is not completed within one (1) year from the date on which the permit was granted, the permit shall become void and no further work may occur until a new land use permit is applied for and obtained from the Town.

SECTION 6. INTERIM USE AND CONDITIONAL USE PERMITS. On or after the effective date of this Ordinance, no use requiring an interim or conditional use permit shall be initiated or expanded except upon issuance of an interim or conditional use permit from the Town Board pursuant to this Section.

- A. **Application:** Applications for an interim or conditional use permit shall be signed by the applicant, its authorized agent, and the property owner (if different), or its authorized agent, on the Town's application form, be accompanied by the required application fee and escrow (if required), and must, at a minimum, contain all of the following information:
1. The name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-quarter mile of the property to which the application relates;
 2. The name of the applicant and of all owners of the property to which the application relates;
 3. The address and legal description of the property; and
 4. A description of the proposed use including, to the extent applicable, hours of operation, parking, anticipated traffic and routes, lighting plans, identification and explanation of any potential sources of significant noise, dust, vibration, or other impacts reasonably anticipated to be generated by the proposed use which could affect surrounding properties.
- B. **Procedure:** Requests for an interim or conditional use permit shall comply, and shall be processed in accordance, with the following:
1. **Notice:** At least ten days before the date of the hearing, notice shall be published in the Town's official newspaper and mailed by first-class mail to all property owners of record, according to the county auditor's property tax records, within one-quarter mile of the property to which the application relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.
 2. **Planning Commission:** The Planning Commission shall conduct a public hearing on the proposed interim or conditional use permit and develop a recommendation to the Town Board regarding the proposed permit. The owner, or its authorized agent, is expected to attend the hearing to explain the application and to answer the Planning Commission's questions. In reviewing the request and developing its recommendation, the Planning Commission shall consider the standards and criteria set out in this Section in addition to any other standards or criteria applicable to the specific proposed use that may be set out in this Ordinance. It is the owner's burden to prove that the standards and criteria can be met in a manner that does not adversely affect the health, safety

or general welfare of the residents in the Town. If the Planning Commission recommends approval of the permit, its recommendation shall include the conditions it recommends be placed on the permit. The recommended conditions may include any the Planning Commission determines are appropriate and reasonable to address anticipated impacts of the proposed use in order to protect the public health, safety, and welfare. The Planning Commission shall forward its recommendation, together with its supporting findings, to the Town Board

- C. **Standards and Criteria:** In addition to any specific criteria or standards this Ordinance may contain with respect to a particular use, the following standards and criteria will be used to evaluate if an interim or conditional use permit should be issued based on whether the proposed use, under the circumstances, would:
1. Whether the use is consistent with the allowed uses in the area and is compatible with the neighborhood.
 2. Whether the use will unreasonably interfere with or devalue surrounding properties, including, but not limited to, the creation of unreasonable noise, dust, light, vibration, or odors.
 3. Whether the use will create an excessive burden on roads or other public infrastructure, or create an unreasonable cost to the public.
 4. Whether the use will cause traffic hazards or congestion.
 5. For interim use permits, the following shall also be considered: the date or event that will terminate the use can be identified with certainty; and the Town determines allowing the use will not impose additional costs on the public if a taking of the property becomes necessary.
- D. **Conditions:** The Town Board may attach such conditions to an interim or conditional use permit it issues as it deems necessary to achieve the purpose of this Ordinance and to protect the public health, safety, and welfare. Such conditions may include any reasonable requirements necessary to fulfill the purposes and intent of this Ordinance. The undertaking of any use allowed by an interim or conditional use permit shall constitute agreement to and the acceptance by the applicant and property owner to the conditions imposed on the permit without reservation or limitation.
- E. **Recording:** The Town Board will record, at the owners' expense, the conditional use permits it issues.
- F. **Amended Permit:** Any change involving structural alterations, enlargement, intensification of the use or similar change not specifically permitted by an interim or conditional use permit, or a requested modification of the conditions imposed on the permit, shall require that the permit be amended. An application to amend an existing interim or conditional use permit shall be administered in the same manner that is required for a new permit. All application and review procedures shall apply.
- G. **Expiration and Revocation:** An interim or conditional use permit shall expire and become void if the use it allows is not substantially started within 12 months from its date

of issuance. A substantial start means more than preliminary steps have been taken such that preparations to initiate the use are mostly complete. The Town Board may revoke a conditional use permit if it determines, after notice to the owner and conducting a public hearing, that any of conditions imposed on the permit have been violated.

SECTION 7: VARIANCES. No variances shall be granted by the Town except in conformance with this Section.

- A. **Authority:** The Board of Appeals and Adjustments may grant a variance from the provisions of this Ordinance in order to promote the effective and reasonable application and enforcement of this Ordinance. A variance is a modification or variation of the provisions of this Ordinance as applied to a specific property. The Board of Appeals and Adjustments may not grant a variance for any use that is not allowed by this Ordinance for property in the zoning district in which the property is located. The Board of Appeals and Adjustments may grant a variance for the temporary use of a one family dwelling as a two family dwelling and may grant a variance for an earth sheltered construction as defined in Minnesota Statutes, section 216C.06, subdivision 14 when such construction would be in harmony with this Ordinance.
- B. **Application:** Application for a variance shall be made by the property owner, or its authorized agent, on the Town's application form, be accompanied by the required application fee and escrow (if required), and must, at a minimum, contain all of the following information:
1. The name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-quarter mile of the property to which the application relates;
 2. The name of the applicant and of all owners of the property to which the application relates;
 3. The address and legal description of the property;
 4. A description of the proposed use or structure to which the variance relates;
 5. The specific provisions of this Ordinance from which a variance is requested; and
 6. An explanation of the specific conditions and circumstances that give rise to the practical difficulties in strictly complying with the provisions of this Ordinance.
- C. **Land Use Administrator:** An application for a variance must be submitted to the Land Use Administrator. The Land Use Administrator shall review the application to determine if it contains all the required information and is otherwise complete, including payment of the required application fee and escrow (if required). If an application is not complete, the Land Use Administrator shall provide the applicant written notice of what information is needed in order to make the application complete within 15 business days of the Town's receipt of the application. The Land Use Administrator shall forward complete applications to the Board of Appeals and Adjustments to conduct a hearing.
- D. **Notice:** At least ten days before the date of the hearing, notice shall be published in the Town's official newspaper and mailed by first-class mail to all property owners of record,

according to the county auditor's property tax records, within one-quarter mile of the property to which the application relates. The notice shall state the time, place, and purpose of the hearing. Failure of any property owner to receive notice of the hearing shall not in any way affect the validity of the hearing or its results.

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

SECTION 8: APPEALS.

- A. **Administrative Decisions:** An appeal may be taken by a person aggrieved from an alleged error in any order, requirement, decision or determination made by a Town administrative officer in the enforcement of this Ordinance. An appeal must be initiated by filing a petition with the Town Clerk within 14 days from the date of the order,

requirement, discussion or determination being appealed. The Town Clerk shall refer all properly brought appeal petitions to the Planning Commission, which shall hold a public hearing and provide a recommendation to the Board of Appeals and Adjustments. The Board of Appeals and Adjustments, following receipt of the recommendation of the Planning Commission, shall make a final determination regarding the appeal. The Board of Appeals and Adjustments shall prepare a written record of its decision and it shall inform the petitioner of the decision. The decision of the Board of Appeals and Adjustments shall be a final order regarding the matter appealed.

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

SECTION 9: AMENDMENTS. An amendment to the text of this Ordinance or of the Land Use Map, including requests to rezone property, may only occur as provided in this Section.

- A. **Who May Initiate:** An amendment to this Ordinance may be initiated by the Town Board, the Planning Commission or by application of an affected property owner. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the Town Board until it has received the Planning Commission's recommendations, or until at least 60 days after the proposed amendment was submitted to the Planning Commission.
- B. **Public Hearing and Recommendation:** The Planning Commission shall hold a public hearing on all proposed amendments. The hearing shall be preceded by at least 10 days' published notice. The Planning Commission shall forward its recommendations regarding a proposed amendment to the Town Board for final action.
- C. **Final Decision:** The Town Board shall take action on the proposed amendment at a Town Board meeting. If the amendment was initiated by application of a property owner, the Town shall inform the property owner of the Town Board's decision.
- D. **Limit on Similar Applications:** No application of a property owner for an amendment to the text of the Ordinance or the Zoning Map shall be considered by the Planning Commission within the one-year period following a denial of such request, except that the Planning Commission may permit a new application if, in the opinion of the Planning Commission, there is new evidence or a change of circumstances that warrants additional consideration.

ARTICLE IX **GENERAL PROVISIONS**

SECTION 1. JURISDICTION. This Ordinance shall apply to all areas in Helga Township, Hubbard County, Minnesota, except areas within the incorporated limits of any city, however organized, or as may otherwise be provided by law.

SECTION 2. ABROGATION AND GREATER RESTRICTIONS. It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed

restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

SECTION 3. MINIMUM REQUIREMENTS AND STRICTNESS. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and welfare. Where the standards, regulations or requirements imposed by any provision of this Ordinance are either more or less restrictive than comparable standards, regulations or requirements imposed by any other ordinance, rule, or regulation of the Town, County, State or Federal government, the statute, ordinance, rule or regulation which imposes the more restrictive condition, standard, regulation or requirement shall prevail. In the event of any conflict between this Ordinance with any private restrictions, protections or covenants, the provisions of this Ordinance shall be met. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other powers granted by State statute. References in this Ordinance to any statutes, rules, regulations, or ordinances shall include any amendments to, or successors of, those statutes, rules, regulations, or ordinances.

SECTION 4. COUNTY REGULATIONS. Hubbard County has enacted various ordinances which may impact the development and use of property in the Town. These ordinances include, but are not limited to, Shoreland Management Ordinance No. 17, Individual Sewage System Standards Ordinance (No. 28), Ordinance #32 For the Regulation of Adult Uses and Sexually Oriented Business, Signage Ordinance No. 34, and the Hubbard County Subdivision Ordinance (No. 35). This Ordinance does not adopt, nor shall it be construed as adopting, any portion of those regulations and the Town is not assuming any responsibility for the administration or enforcement of those regulations. The County is responsible for administering and enforcing its regulations and the Town is responsible for administering and enforcing this Ordinance.

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

SECTION 5. COMPLIANCE. No structure shall be erected, placed, converted, enlarged,

reconstructed, or altered, and no structure or land shall be used, for any purpose or in any manner, which is not in conformity with this Ordinance. Construction of all structures and uses must be in accordance with the application, plans, permit, and any applicable variance. Land use permits, conditional use permits, and interim use permits issued on the basis of approved plans and applications authorize only the use and construction set forth in such approved plans and applications and no other use or construction. Any use or construction not in conformance with that authorized shall be deemed a violation of this Ordinance unless a new or amended permit or variance is first obtained from the Town.

SECTION 6. PRIOR ZONING ORDINANCES. This Ordinance supersedes and replaces all previous land use and zoning ordinances adopted by the Town Board and all such previous land use and zoning ordinances are hereby repealed. The repeal of the Town's previous land use and zoning ordinances does not itself affect the status of any use, structure, or lot that was not in conformance with the earlier ordinances.

SECTION 7. APPLICATIONS. All applications must be on forms approved by the Town Board. Any requests not submitted on an approved Town form shall not be considered an application for the purposes of this Ordinance or Minnesota Statutes, section 15.99 and shall be rejected. An application shall be immediately rejected if it is not accompanied by the required application fee. If an escrow is required, the applicant shall submit the required amount for escrow with the Town within five (5) days of the submission of the application or the application shall be deemed incomplete and will not be processed.

SECTION 8. UNPAID TAXES OR CHARGES. Any application for a zoning request related to property in which there are delinquent property taxes, special assessments, penalties, interest, or past due public utility fees shall not be considered complete and shall not be processed until the owner certifies to the Town, with adequate supporting documentation, that all such delinquent or past due amounts, interest, and penalties have been paid in full. Furthermore, any person that submits an application for a zoning request that owes the Town for past zoning related fees or costs, or if the application relates to property on which there are zoning related fees or costs owed to the Town, the application shall be deemed incomplete and shall not be accepted or processed until all such delinquent or past due amounts have been paid in full to the Town. The Town will not issue a permit or variance to any of the above described properties until all past due amounts, penalties, and interest have been paid in full. The Town may collect any zoning related fees, charges, or costs owed to it by certifying the amount to the County Auditor as a service charge pursuant to Minnesota Statutes, section 366.012 for collection together with the property taxes levied against any real property the person or entity owing the amount owns in the State. The Town will provide the property owner written notice of its intent to certify the amount on or before September 15. The amounts so certified to the County shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes.

SECTION 9. SEVERABILITY. If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect the application of said provisions to any other property, building, or structure not specifically included in said judgment.

SECTION 10. PERFORMANCE BONDS. Where the Town requires a performance bond as a condition of any permit it issues, such security must be issued by a company or bank, and

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

SECTION 11. RULES OF INTERPRETATION. The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

- A. The singular 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 a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be construed as set forth in such definition. If no set definition is given in this Ordinance, the word or term shall have the meaning given it in the Minnesota Statutes, Minnesota Rules, or the most applicable Hubbard County ordinance to the extent the term is given a specific definition therein. Any question as to the meaning of a word or term used in this Ordinance shall be determined by the Board of Appeals and Adjustments;
- E. All measured distances expressed in feet shall be to the nearest 1/10 of a foot;
- F. If a use is not listed as permitted in a zoning district, it is not allowed in the district unless the Town Board determines it is a substantially similar use as provided in this Ordinance;
- G. General words are construed to be restricted in their meaning by preceding particular words;
- H. The references made herein to statutes, rules, regulations, or ordinances of the state or county shall automatically include any amendments made thereto and any successor provisions without further action by the Town Board. Furthermore, such references shall serve to incorporate those statutes, rules, regulations, or ordinances by reference to the extent necessary to achieve the intent and purposes of this Ordinance. However, such incorporations are intended only to give effect to this Ordinance and are not intended to make the Township responsible for the administration or enforcement of the statutes, rules, regulations, or ordinances being referenced; and
- I. The listing of examples to further explain a term, concept, requirement, or process is

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

SECTION 12. INTENT. It is the intent of the Town Board to interpret and apply the provisions of this Ordinance to give effect to all of its provisions, harmonize any conflicting provisions, to remain consistent with the requirements and restrictions of applicable laws, and to favor the purposes of this Ordinance to the greatest extent possible. Furthermore, any procedural requirements or limitations imposed to this Ordinance on the Town which exceed the requirements of applicable state law are discretionary and shall not establish a duty for the Town. Any failure by the Town to satisfy the higher standard or requirement shall not invalidate, or create a basis on which to challenge, the Town's action or decision.

ARTICLE X **ENFORCEMENT**

SECTION 1. VIOLATIONS. Any person, firm or corporation who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a maximum fine or maximum period of imprisonment, or both, as specified by Minnesota Statutes, section 609.03. A violation of this Ordinance shall include, but is not limited to, any of the following: failing, neglecting, or refusing to comply with the provisions of this Ordinance; violating any condition placed on a permit or variance issued by the Town; or knowingly making any false statements in any document required to be submitted under the provisions of this Ordinance. Each day that a violation continues shall constitute a separate offense. A violation of this Ordinance can occur regardless of whether a permit is required for a regulated activity.

SECTION 2. ENFORCEMENT. The Town Board, Land Use Administrator, Town Attorney, and Town Board's appointed representatives have the authority to enforce this Ordinance by issuing notices of violation, cease and desist orders, corrective orders, and citations as may be needed to prevent, restrain, correct, or abate violations. If a cease and desist order or a stop work order is issued to stop an activity, the activity may not be resumed until the reason for the work stoppage has been completely satisfied and the cease and desist order lifted. The Town Board shall determine whether to formally institute a civil or criminal action in district court or other appropriate forum to prevent, prosecute, restore, restrain, correct or abate a violation or a threatened violation of this Ordinance. The Town may seek injunctive relief for any violation, including to require the restoration of a premises to its condition existing prior to the violation or to a condition that complies with this Ordinance. Instituting a civil remedy shall not prevent a criminal prosecution for the same violation and instituting a criminal prosecution for a violation shall not be a bar to instituting a civil remedy.

- A. **Costs of Enforcement:** The cost of enforcement may be added to any fines or other penalties imposed as provided in Minnesota Statutes, section 366.01, subdivision 10. All costs incurred by the Town to enforce this Ordinance shall constitute a service charge the Town may collect 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 subject to the enforcement action owns in Minnesota. The Town will provide the property owner written notice of its intent to certify the amount on or before September 15. The amounts so certified to the County shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes. The Town may exercise any other authority available to it under law to collect its enforcement costs.

SECTION 3. AFTER THE FACT APPLICATIONS. Any application for a permit or variance required under this Ordinance that is submitted to the Town after the use was initiated or the work has commenced shall be required to pay an after-the-fact application fee, which is a multiple of the permit or variance fee as indicated in the Town's current fee schedule.

ARTICLE XI DEFINITIONS

SECTION 1. DEFINITIONS.

- A. **Defined Terms.** For the purpose of this Ordinance, the following terms shall have the meaning hereinafter indicated in this Article, unless specifically stated otherwise.
1. **Abandoned Sign:** A sign located on a property which is vacant or unoccupied for a period of 90 days; or a sign which is damaged, in disrepair or vandalized and not repaired within 90 days.
 2. **Accessory Uses and Structures:** A subordinate building or use which is incidental to and customarily connected with the principal building or use and which is located on the same lot with such principal building or use. Without limiting the foregoing, the following uses shall be considered allowed accessory uses in all zoning districts:
 - a. The removal of no more than 300 cubic yards of mineral materials, top soil, gravel, or other earthen material in a year;
 - b. The installation and maintenance of essential services; and
 - c. Signs allowed by this Ordinance.
 3. **Agricultural Uses:** Those uses commonly associated with the growing of crops, produce and raising of livestock on farms. These uses include: field crop farming; pastures; the production of hay, the growing of fruits and vegetables and other produce; tree, plant, shrub or flower nurseries that do not include buildings or greenhouses; truck gardening; temporary roadside produce stands in season; and livestock raising and feeding. Agricultural uses do not include the raising of fur-bearing animals or the processing of or sale of processed produce.
 4. **Apartment:** A part of a building consisting of a room or suite of rooms for rental purposes, containing sleeping, cooking, eating, living and sanitation facilities and intended, designed or used as a residence by an individual or a single family.
 5. **Board of Appeals and Adjustments:** The Helga Township Board of Appeals and Adjustments, which is authorized to carry out the duties as provided by law and this

- Ordinance. The Town Board shall serve as the Board of Appeals and Adjustments.
6. **Building:** Any structure having a roof supported by columns or walls built for the support, shelter or enclosure of persons, animals, chattel or property of any kind, including a mobile home.
 7. **Conditional Use:** A land use identified in this Ordinance as generally being allowed within a particular zoning district upon the issuance of a conditional use permit by the Town.
 8. **Commercial Use:** The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services. This term does not include industrial uses.
 9. **Condominium:** A form of individual ownership within a multi-family building with owners responsible for maintenance and repairs. Each dwelling unit is owned outright by its occupant, and each occupant owns a share of the land and other common property of the building.
 10. **Driveway Approach:** A private path constructed in a Town road right-of-way that affords vehicular access to the Town road from one or more lots or parcels of property. The term includes access drives and field approaches.
 11. **Duplex, Triplex or Quadplex:** A dwelling structure having two, three or four dwelling units respectively, for rental purposes, being attached by common walls and/or floors each unit having separate sleeping, cooking, eating, living and sanitation facilities.
 12. **Dwelling Unit:** A structure, or that part of a structure, containing cooking, sleeping, and sanitary facilities, which is used as a home residence by one or more persons maintaining a common household to the exclusion of all others. A camper does not constitute a dwelling unit.
 13. **Family:** One or more persons related by blood, marriage, or adoption occupying a dwelling unit as a single housekeeping unit. A family may include more than two persons not related by blood, marriage, or adoption as defined by Minnesota Statutes, section 462.357.
 14. **Farm:** An area which is used for the growing and storage of the usual farm products and the raising of the usual farm animals, containing not less than 10 acres. The term farming includes the operating of such an area for one or more of the above uses, including dairy farms, with necessary accessory uses, provided that the operation of such accessory uses shall be secondary to the normal farming activities.
 15. **Freestanding Sign:** A sign supported permanently upon the ground by poles or braces and not attached to any building.
 16. **Frontage:** The distance along the property line of a lot that directly abuts a public road.

17. **Green Space:** Open space covered by plants, landscape or other vegetative cover. Green space does not include land covered by or devoted to dwelling units or sites, structures, road rights-of-way, road surfaces, parking areas, sidewalks, or other impervious surfaces.
18. **Home Occupation:** Any occupation or profession carried on by a member(s) of the family residing on the premises, provided that the use is clearly incidental and secondary to the main use of the premises for dwelling purposes and does not change the character thereof.
19. **Impervious Surface:** A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, septic tank, parking lots, storage areas and concrete, asphalt or gravel surfaces.
20. **Incidental Sign:** A small sign, emblem or decal informing the public of goods, facilities or services available on the premises (e.g. a credit card sign or a sign indicating hours of business) that does not exceed two square feet.
21. **Industrial Use:** The principal use of land or structures for any business activity engaged in the manufacturing, processing, production, cleaning, servicing, testing, repair or storage of goods or commercial vehicles or products for sale, lease, rental or trade.
22. **Interim Use:** A land use identified in this Ordinance as generally being allowed within a particular zoning district upon the issuance of an interim use permit by the Town. This term also includes certain unnamed temporary uses, but such unnamed uses are not presumed to be generally allowed in any district.
23. **Land Use Map:** The map adopted by the Town Board, and which is incorporated by reference into this Ordinance, designating the boundaries of the zoning districts.
24. **Lot:** A portion of a subdivision or other parcel of land, intended as a unit for transfer of ownership, for development, for occupancy by one main building together with the accessory buildings or for any other use permitted by this Ordinance.
25. **Lot of Record:** Any lot which is one (1) unit of a recorded plat designated by auditor's plat, subdivision plat, or other accepted means and separated from other parcels or portions of said description for the purpose of sale, lease or separation thereof that has been recorded in the Office of the Hubbard County Recorder prior to April 18, 1979.
26. **Multifamily Housing:** A building containing two or more dwelling units occupied or intended to be occupied by persons living independently of each other including, but not limited to, duplexes, triplexes, quadplexes, townhouses, apartment buildings, and condominiums.
27. **Nonconforming Lot:** A lot or parcel lawfully established and of record in the county recorder's office prior to the adoption of an otherwise applicable zoning

- regulation which does not satisfy the minimum dimensional requirements imposed by the newly adopted or amended regulation.
28. **Nonconforming Use:** A use of land, building or structure lawfully permitted when this Ordinance or any amendment thereto is adopted which does not comply in whole or in part with the provisions of this Ordinance or any amendment made thereto shall be a nonconforming use.
 29. **Off-Premises Sign:** A commercial speech sign which directs the attention of the public to a business that is not on the same premises where such sign is located.
 30. **Owner:** Any person, individual, firm, association, syndicate, co-partnership, joint venture, corporation, trust, or any other legal entity having a proprietary interest in the land subject to this Ordinance.
 31. **Permitted Use:** A use identified in this Ordinance that may be lawfully established as a matter of right in a particular zoning district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such district.
 32. **Planning Commission:** The Helga Township Planning Commission, which is the planning agency for the Town and whose members are appointed by the Town Board.
 33. **Premises:** A lot, together with all buildings and structures thereon.
 34. **Religious Institution:** A church, synagogue, temple, mosque or other structure that is architecturally designed or particularly adapted for the primary use of the regular assembly of persons for religious worship. Religious institution includes those accessory uses that are secondary to the principal use, but which are intrinsic and necessary to the tenants and exercise of religious beliefs and that can be conducted on the property in a manner that complies with the requirements of applicable federal, state, and local laws, rules, regulations, codes, and ordinances.
 35. **Right-of-way:** All portions of a public roadway, road, street, alley, cartway in which a governmental entity has an interest including those dedicated to the public, but which have not been taken over for maintenance by the Town.
 36. **Roof Sign:** A sign erected upon the roof of a structure to which it is affixed or a sign painted on the roof of a structure.
 37. **Sign:** Any letter, word, symbol, device, poster, picture, statuary, reading matter, or representation in the nature of an advertisement, announcement, message, or visual communication, whether painted, posted, printed, affixed, or constructed which is displayed outdoors for informational or communicative purposes.
 38. **Sign Area:** That area within the marginal lines of the sign surface which bears the announcement, name, advertisement or other message, or, in the case of letters, figures, or symbol attached directly to any part of a building or wall, that area which is included in the smallest rectangle which can be made to circumscribe all letters, the

- figures, or symbols displayed thereon. The maximum sign area for a freestanding sign refers to a single surface.
39. **Setback:** A horizontal line from the nearest part of the structure to the appropriate boundary line.
 40. **Structure:** Anything which is built, constructed or erected on the ground or attached to the ground, an edifice or building of any kind, or any piece of work artificially built up or composed of parts jointed together in some definite manner whether temporary or permanent in character, including decks and signs.
 41. **Subdivision:** Any land which is divided or proposed to be divided into two or more lots, parcels, tracts, sites, units, or interests for the purpose of offer, sale or lease.
 42. **Temporary Sign:** A sign that is not designed or intended to be placed permanently, including, but not limited to, portable signs, banners, pennants and inflatables.
 43. **Town or Township:** Means, without distinction, Helga Township, Hubbard County, Minnesota.
 44. **Town Board:** The Board of Supervisors of Helga Township, Hubbard County, Minnesota.
 45. **Townhouse:** Single family dwelling units attached to each other by means of common walls and/or floors, where each unit has its own outside entrance.
 46. **Use:** The purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained, and which includes the performance of such activity as defined by the performance standards of this Ordinance.
 47. **Variance:** An authorization issued by the Board of Appeals and Adjustments to avoid the literal provisions of this Ordinance where strict enforcement would create practical difficulties for the Owner in its use of its property due to circumstances unique to the property not created by the Owner.
 48. **Yard:** An open space on the same lot with a building unoccupied and unobstructed by any portion of the structure from the ground upward, except as otherwise provided in this Ordinance.

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

Adopted on the _____ day of _____ 2016.

BY THE TOWN BOARD

Town Chairperson

ATTEST:

Town Clerk