

MANTRAP TOWNSHIP LAND USE ORDINANCE

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AS AMMENDED THROUGH DECEMBER 12, 2011

**MANTRAP TOWNSHIP
LAND USE ORDINANCE**

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**MANTRAP TOWNSHIP
LAND USE ORDINANCE**

ARTICLE I – GENERAL REGULATIONS

Section 100-010 Intent and Purpose

This ordinance, known hereafter as Mantrap Township Land Use Ordinance (Ordinance), is an ordinance regulating the use of land in the Township of Mantrap by the use of districts which include regulations concerning the location, size, and use of buildings, and the placement and density of buildings on lots. Further, this Ordinance has been adopted pursuant to the provisions of the Minnesota Statutes Annotated, Chapter 462.351 to 462.364 and 365.10, subdivision 17.

This Ordinance is intended to serve the following purposes:

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

Section 100-020 Rules

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

1. The singular number includes the plural and the plural the singular.
2. The present tense includes the past and future tenses, and the future the present.
3. The word “shall” is mandatory, and the word “may” is permissive.
4. The masculine gender includes the feminine and neuter genders.
5. 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.
6. All measured distances expressed in feet shall be to the nearest tenth of a foot.
7. In the event of conflicting provisions, the more restrictive provisions shall apply.

Section 100-030 Relation to Land Use Plan

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

Section 100-040 Standard Requirements

The following standards shall apply to all land use districts and property, unless otherwise noted in this Ordinance.

- 1) More Restrictive Provisions to Govern: Where the conditions imposed by any provisions of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, code, statute, resolution or regulation, the regulations which are more restrictive or impose higher standards or requirements shall prevail.
- 2) Interpretation: In their interpretation and application, the provision of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.
- 3) Conformity with this Ordinance: No building or structure shall be erected, converted, enlarged, constructed, reconstructed, moved or altered, and no building, structure or land shall be used for any purpose or in any manner, which is not in conformity with the provision of this Ordinance.
- 4) Building Occupancy: Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Ordinance.
- 5) Land Reduction: No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this Ordinance.
- 6) Abrogation and Regulation: These regulations shall not abrogate any easement, covenant, or any other private agreement where such is legally enforceable, provided that where the regulations of this Ordinance are more restrictive, or impose higher standards or requirements than such easements, covenants, or other private agreements, the requirements of this Ordinance shall be controlling.

Section 100-050 Uses Not Provided For Within Land Use Districts

Whenever in any land use district a use is neither specifically permitted nor denied, the use shall be considered prohibited. The Town Board or the Planning Commission, on their own initiative or upon request by property owner, may conduct a study to determine if a particular use is acceptable and if so what land use district would be most appropriate; and to determine what standards or conditions may relate to development of the use.

The Town Board, Planning Commission or property owner, may, upon completion of the study, initiate an amendment to this Ordinance to provide for a particular use under consideration or shall find that a particular use is not compatible for development within the Township.

Section 100-060 Separability

It is hereby declared to be the intention of the Township that the several provisions of this Ordinance are separable in accordance with the following:

- 1) If any court of competent jurisdiction shall adjudge any provision of this Ordinance invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.
- 2) If any court of competent jurisdiction shall adjudge invalid the application of any provision of

this Ordinance to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.

SECTION 200 DEFINITIONS

The following words and terms, whenever they occur in this Ordinance, are defined as follows:

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

Administrator: The administrator of the Mantrap Land Use Ordinance or its authorized agent or representative. May also be known as Zoning Administrator.

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

Agricultural Building or Structure: Any building or structure, existing or erected, which is used principally for agricultural purposes, with the exception of dwelling units.

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

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

Automobile Body Shop: A building or any portion thereof designed primarily for major reconditioning of worn or damaged motor vehicles or trailers; collision service including body, frame, or fender straightening or repair; and overall painting of vehicles.

Automobile Service Station: A building or any portion thereof designed primarily for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles.

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

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

Board of Adjustment and Appeals: The Mantrap Township Board of Adjustment and Appeals as appointed by the Mantrap Township Board.

Boarding (Lodging) House: A building other than a hotel or motel where, for compensation and by

prearrangement for definite periods, meals, or lodging and meals, are provided to three (3) or more persons, but not to exceed ten (10) persons.

Boulevard: The portion of the street right-of-way between the curb line and the property line.

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

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

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

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

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

Clear Cutting: The removal of an entire stand of trees.

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

Club or Lodge: An association of persons who are bona fide members, and whose use of the premises is restricted to members and their guests.

Commercial Use: The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

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

Commission: The Mantrap Planning Commission, advisory body to Mantrap Town Board.

Commissioner: The Commissioner of the Minnesota Department of Natural Resources.

Conditional Use: A land use or development as defined by an ordinance that may be allowed but only after an in-depth review procedure has been conducted, and with appropriate restrictions or conditions as provided by the applicable ordinance upon a finding that standards and criteria stated in the ordinance will be satisfied. A conditional use must conform to the comprehensive land use plan, if one exists, and be compatible with the existing neighborhood.

Condominium: A multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the provisions of the Minnesota Condominium Law, Minnesota Statutes, and Section 515.A.1-101 TO 515.A.4-118.

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

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

Contour Map: A map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.

Day Care Facility: A facility licensed by the State Department of Human Services or other governing body, public or private, which for gain or otherwise regularly provides one or more persons, as defined by the State Human Services Licensing Act, with care, training, supervision, habilitation, rehabilitation or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. Day care facilities include, but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, developmental achievement centers for children, day training and rehabilitation services for adults, day treatment programs, adult day care centers, and day services.

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

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

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

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

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

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

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

Family: An individual or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit; or a group of not more than four (4) persons who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit. In addition, Mantrap Township recognizes the provisions of State Statute Section 462-357 subd. 7: Permitted Single-family Use.

Final Plat: The final map, drawing or chart on which the developer's plan of subdivision is presented for approval and which, if approved, will be submitted to the county register of deeds. The plat must conform to the requirements of law.

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

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

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

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

Ground Coverage Percentage: The percentage of lot area included within the outside lines of exterior walls of all buildings located on the lot including: porches, decks, patios, breezeways, balconies, and bay windows. In shoreland areas, all permeable surfaces are included in computing ground coverage percentages.

Group Family Daycare: (See Daycare Facility)

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

Hardship: As defined in M.S. Chapter 462, a hardship exists when the property in question cannot be put to reasonable use under the strict interpretation of the official controls; the plight of the landowner is due to circumstances unique to his property and was not created by the landowner; and the variance, if granted, would not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the official controls.

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

1. Type I. An occupation conducted on a non-shore land property in which no evidence of nonresidential activity is evident off of the premises, no increase in traffic results from the business activity, and no employees other than household members work on the premises. Type I home occupations are allowed in all non-shore land districts and do not require a permit, and specifically include: artists, illustrators, writers, photographers, editors, drafters, publishers, consultants, private investigators, music and educational instructors that instruct one student at a time and other similar activities where work of the business consists of activities such as research, word processing, and record-keeping. All such uses shall be subject to all other provisions of this ordinance.

2. Type II. An occupation conducted in a non-shore land district that does not meet the requirements of a Type I home occupation for one or more reasons, but is not identified as a Type III home occupation. Specifically excluded are any activities that result in the alteration of a building, window display, construction features, equipment, machinery or outdoor storage, any of which is visible from outside of the lot on which such use is located. Type II home occupations are permitted uses in all non-shore land districts with the issuance of a conditional use permit, and specifically include: licensed daycares serving 12 or fewer persons, state licensed residential facility registered under Chapter 144D serving 6 or fewer persons, group family daycare facilities licensed under MN Rules, Parts 9502.0314 to 9502.0445 to serve 14 or fewer children, commercial contractor storage, or similar uses which may result in the need for multiple trips or visits to the home business. All such uses shall be subject to all other provisions of this ordinance.
3. Type III. Home occupations that have the potential to adversely affect the functioning of individual sewage treatment systems or those uses that have an increased potential to create a nuisance, environmental contamination, inappropriate off-street parking, or any other inappropriate residential activities which may significantly disrupt the reasonable right to use and occupancy of surrounding residential uses in the immediate neighborhood. Type III home occupations may include uses such as: licensed daycare serving 13-16 persons, state licensed residential facility registered under Chapter 144D serving 7-16 persons, greenhouses, automobile sales and repair operations, lumber mills, welding shops, appliance repair, small engine repair, and all other similar uses as determined by the Planning Commission. Type III home occupations are interim uses in all non-shore land districts.

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

Improved Lot: A lot that contains a single family dwelling ready for immediate use, which is served by a sewage disposal system and water supply.

Individual Sewage Treatment System: A sewage treatment system (ISTS), other than a public or community system, which receives sewage from an individual establishment. Unless otherwise indicated, the word "system", as it appears in this Ordinance, means an individual sewage treatment system, as further defined by Hubbard County *Individual Sewage Treatment System Standard Ordinance* as amended January 1, 1999 and by the current edition of the Minnesota Rules, Chapter 7080.

Industrial Use: The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.

Intensive Vegetative Clearing: The substantial removal of trees or shrubs in a contiguous patch, strip, row or block.

Interim Use: A temporary use of property until a particular date, until a particular event, or until zoning regulations no longer permit it. Interim use permits are not recorded, and all interim uses shall conform at a minimum to the performance standards listed in section 1400-065 item A.

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

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

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

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

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

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

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

Lot of Record: Any lot which is one (1) unit of a recorded plat designated by auditor's plat, subdivision plat, or other accepted means and separated from other parcels or portions of said description for the purpose of sale, lease or separation thereof that has been recorded in the Office of the County Recorder prior to the effective date of this Ordinance.

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

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

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

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

Permanent Foundation: A foundation meeting Minnesota State Building Codes and consisting of approved footings, crawl space, or a basement that has an exterior trim, suitable to the exterior of the structure, that extends to the ground level/grade level.

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

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

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

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

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

Preliminary Plat: The preliminary map, drawing or chart indicating the proposed layout of a subdivision.

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

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

Protective Covenants: Contracts entered into between private parties constituting a restriction on the use of all private property within a subdivision for the benefit of property owners, and to provide mutual protection against undesirable aspects of development that would tend to impair stability of values.

Public Uses: Uses owned or operated by municipal, school districts, county, state or other governmental units.

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

Public Waters: Any waters as defined in Minnesota Statutes, Section 103G.005, subdivision 15-18. However, no lake, pond, or flowage of less than 10 acres in size will be regulated for purposes of these parts. A body of water created by a private user where there was no previous shoreland shall be exempt

from the provisions of this ordinance. Exclusively the Commissioner shall make the official determination of the size of public water basins and the physical limits of drainage areas of rivers and streams.

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

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

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

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

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

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

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

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

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

Sewer System: Pipelines, conduits, pumping stations, force main and all other construction, devices appliances, or appurtenances used for conducting sewage or industrial or other wastes to a point of ultimate disposal.

Shore Impact Zone: Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

Shoreland: Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond or flowage; and 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on a river or stream, whichever is greater.

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

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

Subdivision: The division of a parcel of land into two or more lots or parcels, any of which resultant parcel is less than five acres in area or 300 feet in width, for the purpose of transfer of ownership or building or development or, if a new street is involved, any division of a parcel of land; the term includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land subdivided.

Temporary Structure: Any structure which has been erected or moved on to a lot in order to be utilized for any purpose for a period not to exceed six (6) months. Any structure that is not a temporary structure is considered a permanent structure and must comply with all provisions of this Ordinance.

Township Board: The Town Board, governing body, of Mantrap Township.

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

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

Variance: The relief from or waiver of certain provisions of this Ordinance, when due to the particular physical surroundings, shape or topographical condition of the property, compliance would result in a hardship upon the property owner. A variance shall not be used to permit a use in a district where it is not allowed under the terms of this Ordinance. Variances shall only be granted in compliance with Minn. Stat. § 462.357, subd. 6.

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

Zoning Administrator: See Administrator.

**MANTRAP TOWNSHIP
LAND USE ORDINANCE**

ARTICLE II - GENERAL LAND USE DISTRICTS AND REGULATIONS

SECTION 300-010 Land Use Districts

The Township is hereby divided into the following land use districts as shown below. These districts are created in order to promote the orderly development of land, including the shoreland of its public waters, within the Township. Land Use permits are required for structures and additions to existing structures. See Section 1400-050.

<u>Symbol</u>	<u>District Name</u>
SH	Shoreland District
CON	Conservation District
TR	Conservation Transition District
R	Residential District
RR	Rural Residential District
AG	Agricultural District

Section 300-020 Official Land Use District Map

The official land use map of the Mantrap Township is located at the office of the Township Clerk, Nevis, Minnesota and at the Mantrap Town Hall, 23953 Co. 86, Nevis, MN. This map is hereby adopted by resolution.

Section 300-030 Interpretation of Land Use District Map

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

- 1) District Locations: The location and boundaries of the districts established by this Ordinance are set forth on the official land use map. District boundary lines as indicated on the map follow lot lines, property lines, right-of-way or center lines of streets or alleys, right-of-way or center lines of streets or alleys projected, shorelines, all as they exist upon the effective date of this Ordinance. If said boundary lines do not follow any of the above, the district boundary lines are established as drawn on the official Land Use District Map.
- 2) Vacated Rights-of-Way and Roadways: Whenever any street, alley or other public way is vacated in the manner authorized by law, the land use district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all included in the vacation shall then and henceforth be subject to all regulations of the extended districts.
- 3) Appeals: Appeals concerning the exact location of a land use district boundary line shall be heard by the Board of Adjustment and Appeals.

Section 300-040

Developer's Agreement

All plats and commercial developments within the township shall be required to comply with a developer's agreement. The developer's agreement application is available at the Township Clerk's office and shall be handled in the same manner as a conditional use permit. As a part of the application process it is understood that the applicant grants the township reasonable access to his/her property to engage in a review and inspection.

Official Land Use District Map
(Left intentionally blank)

SECTION 400 SHORELAND DISTRICT (SH) REGULATIONS

Section 400-010 Shoreland

The Shoreland District, as defined, is administered by Hubbard County Environmental Services through its Shoreland Management Ordinance, which may require property owners within Mantrap Township to obtain permits from Hubbard County.

SECTION 500 CONSERVATION DISTRICT (CON) REGULATIONS

Section 500-010 Conservation

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

**SECTION 600 CONSERVATION TRANSITION (TR) DISTRICT
REGULATIONS**

Section 600-010 Purpose and Intent

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

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

Section 600-020 Permitted Uses

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

Section 600-030 Conditional Uses

Conditional uses are the conditional uses of the applicable district.

SECTION 700 RESIDENTIAL DISTRICT (R) REGULATIONS

Section 700-010 Purpose and Intent

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

Section 700-020 Permitted Uses

The following are permitted uses in the Residential (R) District:

1. One and two-family detached dwellings;
2. Public, parochial, private and nursery schools, churches, and community buildings;
3. Public utility buildings, such as substations, transformer stations, and regulator stations without service or storage yards;
4. Home occupations as regulated in Section 1100-040;
5. State licensed residential facility registered under Chapter 144D serving 6 or fewer persons (amend. 2-14-05, Res. #2005-2);
6. Licensed daycare facilities serving 12 or fewer persons (amend. 2-14-05, Res. #2005-2);
7. Group family daycare facilities licensed under MN Rules, Parts 9502.0315 to 9502.0445 to serve 14 or fewer children (amend. 2-14-05, Res. #2005-2);
8. Accessory buildings or structures and uses customarily incidental to any of the uses listed in this section when located on same lot;
9. Town hall (amend. 9-12-05, Res. #2005-09);
10. Fire stations (amend. 9-12-05, Res. #2005-09).

Section 700-030 Conditional Uses

The Town Board following the procedures outlined in Section 1400-060 of this Ordinance may permit the following uses with the approval of a Conditional Use Permit.

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

Section 700-040 Minimum Lot Sizes and Setbacks

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

- | | | |
|----|-----------------------|------------------------------------|
| A. | <i>Lot Size</i> | |
| | 1. One and two-family | 2.25 Acres |
| | 2. Multi-family | 2.25 Acres plus 1,500 sq. ft./unit |
| B. | <i>Lot Width:</i> | |
| | 1. One and two-family | 220 feet |
| | 2. Multi-family | 220 feet |
| C. | <i>Lot Coverage:</i> | |
| | 1. One and two family | not more than 30% |
| | 2. Multi-family | not more than 40% |

- D. *Setbacks:*
- | | |
|---------------------------|------------------------|
| 1. Front yard: | 65 feet |
| 2. Side yard: | 20 feet |
| 3. Side yard, corner lot: | 20 feet on street side |
| 4. Rear yard - | |
| Principal building: | 20 feet |
| 5. Rear yard - | |
| Accessory structures | 10 feet |
- F. *Maximum Building Height:*
- | | |
|------------------------|---------|
| 1. Dwelling Units | 35 feet |
| 2. Accessory buildings | 16 feet |

SECTION 800 RURAL RESIDENTIAL DISTRICT (RR) REGULATIONS

Section 800-010 Purpose and Intent

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

Section 800-020 Permitted Uses

The following are permitted uses in the Rural Residential (RR) District:

1. One and two-family detached dwellings;
2. Public, parochial, private and nursery schools, churches, and community buildings’
3. Public utility buildings, such as substations, transformer stations, and regulator stations without service or storage yards;
4. Home occupations as regulated in Section 1100-040;
5. State licensed residential facility registered under Chapter 144D serving 6 or fewer persons (amend. 2-14-05, Res. #2005-2);
6. Licensed daycare facilities serving 12 or fewer persons (amend. 2-14-05, Res. #2005-2);
7. Group family daycare facilities licensed under MN Rules, Parts 9502.0315 to 9502.0445 to serve 14 or fewer children (amend. 2-14-05, Res. #2005-2);
8. Accessory buildings or structures and uses customarily incidental to any of the uses listed in this section when located on same lot.
9. Town hall (amend. 9-12-05, Res. #2005-09);
10. Fire stations (amend. 9-12-05, Res. #2005-09).

Section 800-030 Conditional Uses

The Town Board following the procedures outlined in Section 1400-060 of this Ordinance may permit the following uses with the approval of a Conditional Use Permit:

1. Multi-family dwellings;
2. Boarding and rooming houses;
3. Bed and breakfasts;
4. Public or private hospitals, clinics, nursing homes, and health-care related facilities;
5. Funeral homes;

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

Section 800-040 Minimum Lot Sizes and Setbacks

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

- | | | |
|------------------------------------|--|-----------------------------------|
| A. <i>Lot Size</i> | | |
| 1. One and two-family | | 5.0 Acres |
| 2. Multi-family | | 5.0 Acres plus 1,500 sq. ft./unit |
| B. <i>Lot Width:</i> | | |
| 1. One and two-family | | 300 feet |
| 2. Multi-family | | 300 feet |
| C. <i>Lot Coverage:</i> | | |
| 1. One and two family | | not more than 30% |
| 2. Multi-family | | not more than 40% |
| D. <i>Setbacks:</i> | | |
| 1. Front yard: | | 65 feet |
| 2. Side yard: | | 20 feet |
| 3. Side yard, corner lot: | | 20 feet on street side |
| 4. Rear yard - | | |
| Principal building: | | 20 feet |
| 5. Rear yard - | | |
| Accessory structures | | 10 feet |
| F. <i>Maximum Building Height:</i> | | |
| 1. Dwelling Units | | 35 feet |
| 2. Accessory buildings | | 16 feet |

SECTION 900 AGRICULTURAL DISTRICT (AG) REGULATIONS

Section 900-010 Purpose and Intent

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

Section 900-020 Permitted Uses

The following uses are permitted uses in the Agricultural (AG) District:

1. Agriculture and general farming, including the raising of livestock, and poultry, dairying, horticulture,

- farm forestry, and similar agricultural enterprises, such as truck gardens and nurseries;
2. One and two family detached residential dwellings;
 3. Public conservation areas, outdoor recreational areas, including boat accesses, beaches, playfields, and similar areas that do not fall under the provisions of the Hubbard County Shoreland Management Ordinance;
 4. Public utility buildings, such as substations, transformer stations, and regulator stations without service or storage yards;
 5. One temporary building for the sale of the produce of any of the above uses, located not less than twenty feet from the street or highway right-of-way;
 6. Cemeteries, including pet cemeteries;
 7. Home occupations related to uses above;
 8. Public, parochial, private and nursery schools, churches, and community buildings;
 9. Accessory uses and structures customary to the above agricultural enterprises;
 10. Playfields for baseball, basketball, soccer, volleyball, softball, football and similar sports activities;
 11. Picnic areas, hiking trails, cross-country skiing trails, non-motorized biking trails, and similar activities;
 12. State licensed residential facility registered under Chapter 144D serving 6 or fewer persons (amend. 2-14-05, Res. #2005-2);
 13. Licensed daycare facilities serving 12 or fewer persons (amend. 2-14-05, Res. #2005-2);
 14. Group family daycare facilities licensed under MN Rules, Parts 9502.0315 to 9502.0445 to serve 14 or fewer children (amend. 2-14-05, Res. #2005-2).
 15. Town hall (amend. 9-12-05, Res. #2005-09);
 16. Fire stations (amend. 9-12-05, Res. #2005-09).

Section 900-030 Conditional Uses

The Town Board following the procedures outlined in Section 1400-060 of this Ordinance may permit the following uses with the approval of a Conditional Use Permit.

1. Multi-family dwellings;
2. Golf courses, swimming pools, ice arenas, as well as other privately- owned outdoor recreational areas;
3. Campgrounds, recreational vehicle parks;
4. Storage units;
5. Bed and breakfasts;
6. Animal clinics and dog kennels provided no structure or pen housing any animals shall be located within three hundred (300) feet of any residential land use;
7. Riding stables provided no structure housing horses shall be located within three hundred (300) feet of any residential land use;
8. Raising of fur bearing animals;
9. Airstrips;
10. Sawmills;
11. Communication towers;
12. Wind chargers;
13. Temporary farm housing;
14. Accessory uses and structures to the above principal uses;
15. Uses involving motorized vehicles, ATVs, snowmobiles, other machine-operated activities;
16. Landscaping and gardening stores (amended 9-12-05, Res. #2005-09).

Section 900-035 Interim Uses

The Town Board, following the procedures outlined in Section 1400-060 of this Ordinance, may permit the following uses with the approval of an Interim Use Permit.

- 1. Extractive Uses – see Section 1300.

Section 900-040 Minimum Lot Sizes and Setbacks

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

- A. *Lot Size:* 10 acres
- B. *Lot Width:* 300 feet
- C. *Lot Depth:* 200 feet
- D. *Lot Coverage:* not more than 10%
- E. *Setbacks:*
 - 1. Front yard: 65 feet
 - 2. Side Yard - residential dwellings and accessory structures to residential uses 20 feet
 - 3. Side Yard - all other permitted and conditional uses unless otherwise specified 25 feet
 - 4. Rear yard - residential uses 10 feet
 - 5. Rear yard - agricultural uses 25 feet
- F. *Maximum Building Height:* 35 feet, except for agricultural uses such as silos

ARTICLE III - REGULATIONS APPLYING TO ALL DISTRICTS

SECTION 1100 PERFORMANCE STANDARDS

Section 1100-010 Purpose

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

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

Section 900-035 Interim Uses

The Town Board, following the procedures outlined in Section 1400-060 of this Ordinance, may permit the following uses with the approval of an Interim Use Permit.

- 1. Extractive Uses – see Section 1300.

Section 900-040 Minimum Lot Sizes and Setbacks

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

- A. *Lot Size:* 10 acres
- B. *Lot Width:* 300 feet
- C. *Lot Depth:* 200 feet
- D. *Lot Coverage:* not more than 10%
- E. *Setbacks:*
 - 1. Front yard: 65 feet
 - 2. Side Yard - residential dwellings and accessory structures to residential uses 20 feet
 - 3. Side Yard - all other permitted and conditional uses unless otherwise specified 25 feet
 - 4. Rear yard - residential uses 10 feet
 - 5. Rear yard - agricultural uses 25 feet
- F. *Maximum Building Height:* 35 feet, except for agricultural uses such as silos

ARTICLE III - REGULATIONS APPLYING TO ALL DISTRICTS

SECTION 1100 PERFORMANCE STANDARDS

Section 1100-010 Purpose

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

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

Section 1100-020 Standards for Single and Two Family Dwellings and Property

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

1. All single and two family dwellings shall have a minimum floor area of five hundred (500) square feet.
2. All single and two family dwellings shall be attached to a permanent foundation.
3. All single and two family dwellings, except mobile homes in a mobile home park, shall have a minimum width of twenty (20) feet.
4. Only one principal structure is permitted per lot unless otherwise permitted by district regulations.

Section 1100-030 Accessory Structures

1. No accessory building or structure, unless an integral part of the principal building shall be constructed, altered, or moved within 5 feet of the principal building. (amended 2-13-06, Res. #2006-01).
2. In the Residential District (R), no accessory building shall exceed 18 feet in height and shall not exceed 1,500 square feet in floor area. (amended 10-12-06, Res. #2006-02).
3. In Rural Residential District (RR), no accessory building shall exceed 24 feet in height and shall not exceed 2,000 square feet of floor area. (amended 10-12-06, Res. #2006-02).

Section 1100-040 Sanitation Standards

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

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

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

Section 1100-050 Exterior Storage

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

1. Laundry;
2. Construction and landscaping materials currently being used on the premises;
3. Agricultural equipment and materials if these are used or are intended for use on the premises;

4. Firewood;
5. Fish houses in good repair;
6. Off-street parking of passenger automobiles and pick-up trucks;
7. Boats and trailers, less than forty (40) feet in length, are permissible if stored more than ten (10) feet distance from property line; and
8. RVs and campers and recreational equipment.

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

Section 1100-060 Refuse and Junk Vehicles

Mantrap Township will defer to Hubbard County Solid Waste Ordinance # 18

Section 1100-070 Maintenance

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

Section 1100-080 Fences

A fence is defined as any partition, structure, wall or gate erected within the property. This section shall apply to all fences constructed after adoption of this Ordinance.

1. All boundary line fences shall be entirely located upon the property of the person constructing such fence unless the owner of the property adjoining agrees, in writing, that such fence may be erected on the division line of the respective properties.
2. Fences shall not exceed six (6) feet in height in residential districts. Fences higher than these shall require a Conditional Use Permit.
3. Any posts or similar structural member used in the construction of a solid board fence shall be constructed to face inward towards the property being fenced, so as not to be visible from adjacent properties. Fence designs which partially conceal posts and structural members such as alternating board and basket weave fences are exempt from this requirement.

Section 1100-090 Special Provisions for Type II and Type III Home Occupations

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

1. Such occupation is carried on in the principle building and may not be conducted in an accessory building other than a private garage. In the Rural Residential and Agricultural districts such occupation can be conducted in an accessory building.
2. In the Residential district, no more than twenty-five percent (25%) of the gross floor area of the residence or garage is used for this purpose. This requirement will be discussed on a case by case basis.
3. No articles for sale shall be displayed so as to be visible from the street unless permitted under the terms of a conditional / interim use permit.

4. Not more than three (3) persons other than those who reside on the premises shall be employed.
5. No mechanical or electrical equipment shall be used if the operation of such equipment violates existing nuisance controls, creates a public nuisance, or otherwise interferes unreasonably with the desired quiet residential environment of the neighborhood or if the health and safety of the residents is endangered. No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.
6. Such occupation does not generate more than two (2) vehicles at one time.
7. Such occupation must provide off-street parking, but no more than two (2) spaces.
8. There shall be no exterior storage of equipment or materials used in the home occupation unless permitted under the terms of a conditional / interim use permit. Personal automobiles used in the home occupation may be parked on site.
9. The approval of signage type and size will be part of the conditional / interim use permit.
10. No home occupation shall be conducted between the hours of 10:00 PM and 7:00 AM unless said occupation is contained entirely within the principle building and does not require any on-street parking facilities.
11. An owner of a home occupation shall maintain adequate sewage treatment facilities, and shall provide documentation of compliance with the standards prescribed in section 1100-040 upon request of the Planning Commission.
12. No home occupation shall require exterior or significant interior renovation or alteration not customarily found in dwellings except where required to comply with local and state fire and police recommendations.
13. Home occupations which create noise, odor, dust, electrical glare or vibrations discernable off of the premises shall not be permitted.

Section 1100-100 Telecommunication Towers Purpose

The purpose of the Telecommunication Towers Section shall be to establish regulations that protect the public health, safety and general welfare of the Township. These regulations are intended to:

- A. Facilitate the provision of telecommunications services and facilities including commercial wireless telecommunication services in Mantrap Township;
- B. Minimize adverse visual effects of towers through careful design and site standards
- C. Avoid potential damage to adjacent properties from tower or antenna failure and weather related occurrences through structural standards, careful site and setback requirements; and
- D. Encourage the use of existing towers and buildings to accommodate commercial wireless telecommunication service antennas in order to minimize the number of towers needed to serve the Township.

Section 1100-110 Definitions

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

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

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

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

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

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

Section 1100-120 Permits Required

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

Section 1100-130 Permit Requirements

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

- A. A report from a licensed professional engineer that describes the commercial wireless telecommunication service tower's capacity, including the number and type of antennas that it can accommodate;
- B. A letter of intent from the commercial wireless telecommunication service tower owner committing the tower owner and successors to allow, when possible the shared use of the tower;
- C. The location of all public and private airports within a three (3) mile radius of the tower site;
- D. FCC licensure and approval as required for various communications applications; and

- E. For towers over five hundred (500) feet, an Environmental Assessment Worksheet (EAW) is required and the applicant shall be responsible to complete the EAW prior to the issuance of a permit from the Township.

Section 1100-140 Tower Setbacks

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

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

Section 1100-150 Tower Location

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

Section 1100-160 Co-Location Requirements

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

- A. Documentation of the area to be served including a search ring for the antenna location. A narrative describing a search ring for the request, with not less than one (1) mile radius clearly explaining why the site was selected, what existing structures were available and why they are not suitable as locations or co-locations.
- B. Documentation that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower within the search ring of the service area due to one or more of the following reasons:
 - 1. The planned equipment would exceed the structural capacity of the existing or approved tower, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned equipment at a reasonable cost;
 - 2. Existing or approved towers within the search radius that cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer;

3. Other unforeseen reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower.

Section 1100-170 Accessory Utility Buildings

All buildings and structures accessory to a tower shall:

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

Section 1100-180 Tower Lighting

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

Section 1100-190 Screening and Landscaping Requirements

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

Section 1100-200 Unmaintained /Abandoned Towers

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

Section 1100-210 Nonconforming Towers

In order to avoid requiring new towers and to minimize the number of towers needed to serve the Township, the following provisions shall apply to nonconforming towers. Telecommunication towers in existence at the time of this amendment may be permitted to increase tower height after being issued a conditional use permit. The Planning Commission shall consider the following criteria as part of the conditional use permit process:

- A. Tower safety concerns including tower collapse, falling ice and airplane traffic;
- B. Disturbance or conflict with agricultural uses on the property; and

- C. Other factors which tend to reduce conflicts or are incompatible with the character and need of the area.

SECTION 1200 NONCONFORMING USES AND STRUCTURES

Section 1200-010 Existing Uses

The lawful use of any structure or use existing upon the effective date of the adoption of this Ordinance may be continued subject to the following provisions:

1. No such use and structure shall be expanded or enlarged except in conformity with the provisions of this Ordinance. (For purposes of this section, a structure that is nonconforming only because of setbacks shall be allowed to expand as long as the new addition meets all structure setbacks and other provisions of the Ordinance.)
2. If any non-conforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged, then the structure or its replacement shall thereafter conform to this Ordinance (amend. 2-14-05, Res.#2005-4).
3. A nonconforming use of a structure, which has been discontinued for a period of twelve (12) months, shall not be re-established and any further use shall be in conformance with this Ordinance.
4. Normal maintenance of a nonconforming use and structure is permitted. Maintenance may include necessary non-structural repairs and incidental alterations that do not enlarge or intensify the non-conforming use.
5. When any lawful non-conforming use of any structure or land has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.
6. A lawful nonconforming use of a structure or parcel of land may be changed to a similar nonconforming use or to a more restrictive nonconforming use. Once a structure or parcel of land has been placed in a more restrictive nonconforming use, it shall not return to a less restrictive nonconforming use.
7. Alterations may be made to a building containing lawful nonconforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units or outside dimension of a building.

Section 1200-020 Nonconforming Lots

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

Section 1300 EXTRACTIVE USES

Section 1300-010 All Extractive Use Operations

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

Section 1300-020 New Extractive Use Operations

New extractive uses are only allowed in the Agricultural Land Use District as interim uses. New extractive uses are not permitted within the Shoreland District. All new extractive uses must obtain an

Interim Use Permit from the Township. For the purposes of this Ordinance, a new extractive use is one established after May 1, 2009.

Section 1300-030 Existing Extractive Use Operations

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

Section 1300-040 Types of Extractive Uses

The application for an Interim Use Permit shall specify the type of extractive use for which the applicant is applying. The type of extractive use that is approved by the Township will be specified in the Interim Use Permit. Only the type of extractive use that is specified in the Interim Use Permit will be permitted.

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

operations and bituminous reprocessing.

5. Extractive Use Type G5. All Type G1, G2, G3 and G4 uses, and the site may include a ready mix concrete plant.

Section 1300-050 Application Information

An application for an Interim Use Permit for an extractive use shall be submitted to the Township on a form supplied by the Township. Information required for the application shall include, but not be limited to, the following:

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

13. A description of the anticipated vegetative and topographic alterations on the property;
14. A description of the plan to mitigate potential impacts on wildlife and any neighboring cultural or archaeological sites;
15. A description of the site hydrology and drainage characteristics during extraction for each phase of extraction. Identify any locations where drainage of any disturbed areas will not be controlled on the property and the plans to control erosion, sedimentation, and water quality of the runoff;
16. A description of the potential impacts to adjacent properties resulting from the extraction and off-site transportation, including, but not limited to, noise, dust, surface water runoff, groundwater contamination, draw down of groundwater levels, traffic and aesthetics and a description of the plan to mitigate these potential impacts; and
17. Any other information or documentation required for issuance of an Interim Use Permit under Section 1400-065 of the Land Use Ordinance.

Section 1300-060 Permits Required

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

Section 1300-070 Review Criteria

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

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

9. The extraction operation is not compatible with surrounding land uses or the Comprehensive Plan.

Section 1300-080 Setback Requirements

1. Property Lines. No extractive use shall be carried on or any stock pile placed closer than 50 feet from any property line or road easement. A greater distance may be required by the Board where such is deemed necessary for the protection of adjacent property.
2. Equipment and Machinery. All equipment and machinery must be operated and maintained in such a manner as to minimize dust, noise and vibration. Power drives of power producing machinery, not including vehicles, shall not be housed or operated less than 500 feet from a residence in existence at the time of the application or less than 50 feet from the property line if the distance to the nearest residence is over 500 feet. All processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and bluffs in accordance with the structure setback requirements as set forth in this Ordinance.

Section 1300-090 Performance Standards

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

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

the perimeter of the site. "Trucks Hauling" signs must be placed by the owner or operator of the site along all Township roads a distance of not less than 500 feet from the entrance to the site. "Trucks Hauling" signs must be removed or covered by the owner or operator when the site is not in operation.

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

Section 1300-100 Termination

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

1. A violation of a condition under which the permit was issued; or
2. A determination that the facility has been inactive for a period of 12 months or more.

Section 1300-110 Reclamation

A reclamation plan must be submitted by the owner when applying for the Interim Use Permit for approval by the Township. The reclamation plan must address reclamation both during operations and after closing.

A. Reclamation During Operations. The owner or operator must perform the following reclamation activities during the course of operating the extraction facility:

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

B. Closing Reclamation Plan. The closing reclamation plan must meet the following minimum standards:

1. The site must be reclaimed within one year of the expiration of the Interim Use Permit, or within one year of the cessation of operations. If the property is sold or transferred, reclamation must be completed prior to the date of the sale or transfer.
2. All buildings, structures and plants incidental to the operation must be dismantled and removed by the owner or operator;

3. The peaks and depressions of the site must be graded and backfilled to a surface which will result in a topography in substantial conformance to the surrounding land area and which will minimize erosion caused by rain. No finished slope shall exceed 3:1.
4. Reclaimed areas must be surfaced with soil of a quality at least equal to the topsoil of the surrounding area. Legumes and grasses must be planted. Trees and shrubs may also be planted, but not as a substitute for legumes and grasses. All plantings must adequately retard soil erosion, and be based on Hubbard County Soil and Water Conservation District recommendations.
5. Extractive use sites may also be reclaimed for wetland mitigation or creation. If it is the intent of the owner or operator to reclaim in this manner, the plans must be approved by the Township and Hubbard County Soil and Water Conservation District.

Section 1300-120 Security

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

ARTICLE IV - ADMINISTRATION

SECTION 1400 ADMINISTRATION

Section 1400-010 Zoning Administrator

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

1. Enforce and administer the provisions of the Ordinance subject to any required approval by the Town Board;
2. Upon Board approval, the Zoning Administrator shall issue Land Use and Conditional Use permits for activities which comply with the provisions of this Ordinance;
3. Maintain permanent and current records of this Ordinance, including but not limited to maps, amendments, variances and conditional uses which shall be on file at the office of the Zoning Administrator, with oversight of the Township Clerk;
4. Receive, file and forward, along with recommendations, all applications for appeals, variances, conditional uses or other matters to the proper designated official bodies;
5. Institute in the name of the Township, any appropriate actions or proceedings against a violator as provided for in the Ordinance, including but not limited to legal actions, and suspending or revoking permits;
6. Inspect development to ensure compliance with Ordinance; and
7. Serve as an ex-officio, non-voting member of the Planning Commission.

3. The peaks and depressions of the site must be graded and backfilled to a surface which will result in a topography in substantial conformance to the surrounding land area and which will minimize erosion caused by rain. No finished slope shall exceed 3:1.
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4. Receive, file and forward, along with recommendations, all applications for appeals, variances, conditional uses or other matters to the proper designated official bodies;
5. Institute in the name of the Township, any appropriate actions or proceedings against a violator as provided for in the Ordinance, including but not limited to legal actions, and suspending or revoking permits;
6. Inspect development to ensure compliance with Ordinance; and
7. Serve as an ex-officio, non-voting member of the Planning Commission.

Section 1400-020 Planning Commission

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

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

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

Section 1400-030 The Board of Adjustment and Appeals

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

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

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

- C. The Board of Adjustment and Appeals shall have the exclusive power concerning the following:
 - 1. To grant variances from the strict enforcement of standards and provisions prescribed by this Ordinance. Variances shall only be granted based upon the criterion prescribed in Section 1400-040(A) of this Ordinance;
 - 2. To hear and decide any appeal from an order, requirement, decision or determination made by the Zoning Administrator;
 - 3. To interpret any district boundary on the official Land Use District Map;

4. All decisions by the Board of Adjustment and Appeals in granting variances, or in hearing any appeals from administrative order, requirement, decision or determination shall be final except that any aggrieved person, department, agency, Board or Commission shall have the right to appeal to the District Court within thirty (30) days after receipt of the notice of the decision made by the Board of Adjustment and Appeals.

Section 1400-040 Variances and Appeals

- A. The Mantrap Board of Adjustment and Appeals shall have the exclusive power to order the issuance of variances from the terms of any official controls including restrictions placed on nonconformities. All such variances shall be granted only in accordance with Minn. Stat. §462.357, subd. 6. Variances shall only be permitted where the strict enforcement of this Ordinance would cause undue hardship because of circumstances unique to the individual property under consideration and when they are in keeping with the spirit and intent of this Ordinance. The Planning Commission shall consider the criteria set forth below when hearing and making recommendation upon a variance request:
 1. Has the applicant demonstrated an undue hardship? (Undue hardship means the property cannot be put to a reasonable use under conditions allowed by the Zoning Ordinance. Economic considerations alone do not constitute an undue hardship.)
 2. Are there exceptional circumstances unique to this property, which were not created by the landowner?
 3. Can the variance be granted without upsetting the spirit and intent of the Zoning Ordinance?
 4. Can the variance be granted without altering the essential character of the surrounding area?
- B. The Planning Commission must make an affirmative finding on **all** of the four criteria listed above in order to make a recommendation to the Town Board to grant a variance. The applicant for a variance has the burden of proof to show that all of the criteria listed above have been satisfied. A variance shall not be granted for a use that is not permitted under this Ordinance in the district in which the property is located.
- C. The Commission may impose conditions upon a variance that relate to the purposes and objectives of this Ordinance and to protect adjacent properties. Failure to comply with any conditions imposed on a variance may result in an enforcement action which may include, but is not limited to, the revocation of the variance. The township will provide at least 10 days notice to the landowner and hold a hearing prior to revoking a variance.
- D. Procedure for applying for a Variance:
 1. An applicant desiring a variance shall fill out and submit to the Township Clerk/ Zoning Administrator a completed Variance Request form, copies of which are available from the Township Clerk/Zoning Administrator. As part of the application process it is understood that the applicant grants the township reasonable access to his/her property to engage in a review and inspection. When such application is properly filed, and fee paid, it shall be reviewed for completeness before the Planning Commission can consider it.
 2. The Zoning Administrator shall make a recommendation, in writing, to the Planning Commission, and forward the request for their review.
 3. The Planning Commission shall hold a public hearing on the requested variance after providing at

least 10 days published notice.

4. The Planning Commission will forward its recommendation and findings to the Board of Adjustment and Appeals. If it recommends approval of the variance, the Commission may propose conditions it considers necessary to protect the public health, safety and welfare.

5. The Board of Adjustment and Appeals will act to make a final decision on the variance request and determine the conditions to be placed on the variance, if any.

6. An application for a variance shall not be resubmitted for a period of six months following denial.

7. Variance requests that have been approved shall be recorded in the office of the Hubbard County Recorder as per Minnesota statutes.

E. Procedure for filing an Appeal:

An appeal of an administrative decision made in the enforcement of this Ordinance shall be made by filling out and submitting to the Township Clerk/Zoning Administrator an Application for Appeal, which is available from the Township Clerk/Zoning Administrator. The appropriate fee shall be paid in order for the application to receive consideration by the Board of Adjustment and Appeals. The Board of Adjustment and Appeals shall hear such appeal within sixty (60) days of the date that such complete application is submitted to the Township Clerk/Zoning Administrator.

Section 1400-050 Land Use Permits

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

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

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

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

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

- D. All land use permits shall expire one (1) year from the date of issue. An extension because of extenuating circumstances may be granted by the Planning Commission. All such permits shall be nontransferable.
- E. After the appropriate fee has been paid, and if the proposed activity does not conflict with any portion of this Ordinance, the permit shall be granted. If the permit is not granted, the reasons for such denial will be provided, in writing, to the applicant.
- F. An appeal of an administrative decision made in the enforcement of this Ordinance may be made by filling out and submitting to the Township Clerk/Zoning Administrator an Application of Appeal. Such appeal shall be heard by the Board of Adjustment within sixty (60) days of the date that such application is submitted to the township Clerk/Zoning administrator.
- G. Any violation of the terms and conditions of the permit issued pursuant to this Ordinance, or of the violation of any provisions of this Ordinance relating to the subject matter of the permit, shall result in the immediate revocation of such permit. The revocation of a permit may be appealed to the Board of Adjustment, in the same manner as the appeal of the denial of the issuance of a permit.

Section 1400-060 Conditional Use Permits

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

- A. In considering the granting of any conditional use permit throughout the township, the Planning Commission and Town Board shall evaluate the effect of the proposed use upon:
 - 1. The maintenance of the public health, safety and welfare;
 - 2. The location of the site with respect to existing and proposed access roads;
 - 3. Its compatibility with adjacent land uses;
 - 4. Its compatibility with the intent of the zoning district in which such use is proposed;
 - 5. Its compatibility with the objectives of this Ordinance and its consistency with the Land Use Plan.
- B. Upon consideration of the factors listed above, the Planning Commission may attach such conditions, in addition to those required elsewhere in this Ordinance that it deems necessary for the furtherance of the purposes set forth in this Ordinance. Such conditions attached to conditional use permits may include, but shall not be limited to:
 - 1. Increased yards and setbacks;
 - 2. Periods and/or hours of operation;
 - 3. Minimum number of off-street parking spaces;

4. Type of construction;
 5. Deed restrictions;
 6. Landscaping and vegetative screening;
 7. Type and extent of ground cover;
 8. Specified sewage treatment and water supply facilities;
 9. Location of signs, and parking;
 10. Any other reasonable requirements necessary to fulfill the purposes and intent of this Ordinance.
- C. An applicant for a Conditional Use Permit may be required to furnish the Planning Commission, in addition to the information required for the building or other permit, the following:
1. A plan of the proposed project area showing contours, soil types, ground water conditions, bedrock, slope, and vegetative cover;
 2. Location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, open spaces and vegetative cover;
 3. Plans of buildings, sewage treatment facilities, water supply systems, and arrangements of operations;
 4. Specifications for areas of proposed grading, filling, dredging, lagooning, or other topographic alterations;
 5. Other pertinent information necessary to determine if the proposal meets the requirements and intent of this ordinance.
- D. The Planning Commission and the Town Board, in evaluating each conditional use applicant may request the Hubbard County Soil and Water Conservation District to make available expert assistance to assist in the evaluation and consideration of such application.
- E. Procedure for applying for a Conditional Use Permit:
1. An applicant desiring a conditional use permit shall fill out and submit to the Township Clerk/Zoning Administrator a completed Conditional Use Permit Request Form, copies of which are available from the Township Clerk/Zoning Administrator. As part of the application process it is understood that the applicant grants the township reasonable access to his/her property to engage in a review and inspection.
 2. The Zoning Administrator shall make a recommendation, in writing, to the Planning Commission, and forward the request for their review.
 3. The Planning Commission shall hold a public hearing in accordance with M.S. 462 and the provisions of this Ordinance.
 4. The Planning Commission will forward their recommendation to the Town Board within sixty (60) days after receiving the application. If it recommends the conditional use permit, the Commission may impose conditions it considers necessary to protect the public health, safety and welfare.
 5. The Town Board will act upon the request within 30 days of receipt from the 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 and such conditions may include a time limit for the use to exist or operate.

6. 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 at least ten (10) days prior to the review; it shall be the responsibility of the Township Clerk/Zoning Administrator to schedule such public hearings and the owner of land having a conditional use permit shall not be required to pay a fee for said review. A waiver from a public hearing for annual review of conditional use permits may be granted at the discretion of the Town Board.
7. An application for a conditional use permit shall not be resubmitted for a period of six months following denial.
8. Conditional Use Permits issued shall be recorded in the office of the Hubbard County Recorder as per Minnesota statutes.

F. Existing Conditional Use Permits.

Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the original 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 Township Clerk/Zoning Administrator shall maintain a record of all conditional use permits issued including information on the use, location, and conditions imposed by the Town Board, time limits, review dates, and such other information as may be appropriate.

Section 1400-065 Interim Use Permit

- A. The purpose of this Ordinance is to allow interim uses under specific and regulated conditions. Interim uses may be allowed by permit if the following conditions are met:
1. The use conforms to the zoning regulations;
 2. The date or event that will terminate the use can be identified with certainty;
 3. Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
 4. The user agrees to any conditions that the Town Board deems appropriate for permission of the use.
- B. Application. The applicant shall submit an application for an Interim Use Permit to the Zoning Administrator. The application shall be accompanied by the following information and documentation:
1. A legal description of the property;
 2. Identification of the owner and user, if different;
 3. A site plan, including location of all buildings, driveways, parking areas, septic systems, drain fields, wetlands and easements;
 4. The names of each owner of property situated wholly or partly within 1500 feet of the property to which the interim use relates;

5. A statement of the date or event that will terminate the use;
 6. An application fee as set forth in the Township fee schedule; and
 7. Such other information as the Township deems necessary or desirable.
- C. Review. Upon receipt of an application for an Interim Use Permit, the Zoning Administrator shall review the material submitted and determine whether the application is complete. If the application is not complete, the Zoning Administrator shall notify the applicant in writing and shall specify the additional documentation or information that the applicant will be required to submit before the application will be considered complete. When the application is complete, the Zoning Administrator shall refer the matter to the Planning Commission for review and a public hearing.
- D. Planning Commission Review; Public Hearing.
1. The Planning Commission shall review the proposed Interim Use Permit on the basis of the information and documentation submitted by the applicant and any other information available to it. The Planning Commission shall hold a public hearing on the proposed interim use. Notice of the time, place and purpose of the hearing shall be published in the Township's official newspaper at least 10 days prior to the date of the hearing. Notice shall also be mailed at least 10 days prior to the hearing to each owner of affected property and property situated wholly or partly within 1500 feet of the property to which the interim use relates. However, any defects in the mailed notice shall not affect the Township's ability to consider and act on the application or on the validity of the permit if issued.
 2. The Planning Commission shall review the proposed interim use to determine whether it is consistent with the requirements of this Ordinance. Following the public hearing, the Planning Commission shall recommend that the Interim Use Permit be approved with conditions or denied. The Planning Commission shall forward its recommendation to the Town Board along with a list of suggested conditions if it recommends approval of the permit.
- E. Town Board Review; Amendment.
1. The Town Board shall consider the report of the Zoning Administrator and the recommendation of the Planning Commission and may consider any additional information or conduct such additional review as it determines would serve the public interest. The Town Board shall approve with conditions or deny the Interim Use Permit. The Town Board shall condition its approval in any manner it deems reasonably necessary in order to promote public health, safety or welfare and to achieve compliance with this Ordinance. The Town Board may require the applicant to enter into an agreement including such provisions as it deems reasonably required to ensure compliance with this Ordinance and the terms and conditions of the Township's approval.
 2. An application to amend an approved Interim Use Permit shall be reviewed under this section in the same manner as an initial application for an Interim Use Permit.
- F. Termination. An interim use shall terminate upon the date or the occurrence of the event established in the permit or upon such other condition specified by the Township.

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

Section 1400-070 Amendments

The Town Board may adopt amendments to the zoning ordinance and zoning map in relation to land uses within a particular district or to the location of the district lines. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the Township as reflected in the Township's Policy Statements or changes in conditions of the Township. The procedure for amendments to this Ordinance shall be as follows:

- A. An amendment may be initiated by a property owner, the Planning Commission or the Town Board. Property owners wishing to initiate an amendment shall fill out an Application for Amendment form, available from the Township Clerk/Zoning Administrator. Such application shall be filled out and submitted to the Township Clerk/Zoning Administrator together with the appropriate fee. As part of the petition process, it is understood that the petitioner grants the township reasonable access to his/her property to engage in a review and inspection. The application, however, shall not be considered submitted until the Planning Commission has reviewed the application and determined if a cash bond is required. If a cash bond is required, the application shall not be considered submitted until the bond as indicated is paid. Failure to pay a cash bond requested by the Planning Commission shall constitute a denial of the requested amendment.
- B. The applicant shall appear before the Planning Commission to answer any questions that Commission members may have concerning the amendment. In addition, the Commission may require as a condition of holding a hearing that the applicant pay a cash bond to conduct a study concerning the proposed use if deemed advisable by the Commission. As a general rule, if the Commission determines a study is necessary, most applicants will be required to pay a bond in the amount of \$3,000.00. The Commission has the discretion to raise or lower the cash bond requirement after evaluating the following factors: (1) the need for a study, (2) the administrative and legal expenses of the township in responding to the proposed amendment, and (4) potential effect the proposed amendment would have for area residents. If during the course of the study the costs of the study exceed the cash bond, the applicant must pay the same amount as the original cash band. Upon completion of the study, a full accounting of the money spent to conduct the study shall be provided to the applicant and any remaining funds shall be returned to the applicant within thirty (30) days of the accounting. If there are outstanding debts associated with the study, the applicant shall be responsible for payment of said indebtedness. Failure to pay the outstanding indebtedness within thirty (30) days of receiving notice will result in an assessment being placed against the applicant's property.
- C. The Planning Commission shall conduct a public hearing on the amendment request within sixty (60) days following such initial meeting. The public hearing shall be conducted in accordance with M.S. 462.
- D. The Planning Commission shall make its recommendation to the Town Board after the proceedings of this public hearing. The applicant shall be notified in writing of the recommendation that shall be forwarded to the Town Board.
- E. The Town Board shall consider the recommendation of the Planning Commission within thirty (30) days after the public hearing is conducted. The applicant shall be notified in writing of the action of the Town Board.

- F. 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 the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.
- G. Amendments adopted by the Town Board shall be recorded in the office of the Hubbard County Recorder per Minnesota Statutes.

Section 1400-080 Public Notice and Hearing Requirements

- A. In addition to the procedures described in preceding sections of this Ordinance, all conditional use permit requests, variance requests, and requests for amendments shall be reviewed at a public hearing conducted at least ten (10) days following official public notification including publication in the official newspaper of the Township and notification of all property owners within the following distances from affected property when such notice is applicable. In the case of Variances and Conditional Use Permits all property owners within one-half (1/2) mile of the property or ten (10) surrounding property owners, whichever includes the most property owners, must be notified; in the case of amendments to official controls which involve changes in district boundaries of five acres or less, all owners of property within one-half (1/2) mile must be notified.
- B. (Omitted/Amended 2-14-05, Res. #2005-04).

Section 1400-090 Enforcement and Penalties

- A. The applicant's signature on a completed application grants the Township Clerk/Zoning Administrator or his or her agent the right, at all reasonable times, to enter upon private property for the purpose of administration or enforcement of this Ordinance. This includes the right to conduct investigations, sampling, test borings and other actions necessary for the enforcement of this Ordinance. Refusal to allow reasonable access shall be deemed a separate and distinct offense, whether or not any other specific violations are cited.
- B. In the event of violation or threatened violation of this Ordinance, the Town Board, in addition to other remedies including prosecution under Section 1400-080(C) of this Ordinance, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the Mantrap Town Board to institute such action.
- C. The imposition of civil and/or criminal penalties is provided for under Minnesota law. Use of a civil remedy shall not prevent a criminal prosecution for the same violation. Accordingly, a criminal prosecution for a violation shall not be a bar to a civil remedy. Violator(s) will be responsible for the cost of prosecution, which shall comprise: attorney's fees, cost, and expenses, filing fees, expert fees, and township administrative cost.
- D. Any person, firm or corporation who shall violate any of the provisions herein, or who shall fail to comply with any of the provisions herein, or who shall make any false statement in any document required to be submitted under such provision, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by such penalties and fines as provided in Minnesota Statute Chapter 609.03. Each day that the violation continues shall constitute a separate offense.
- E. In the event any land use is proposed, or is being used in such a manner as to be in violation of

this Ordinance, the Town Board or Zoning Administrator may issue cease and desist orders to halt the progress on any on-going violation. Once a cease and desist order has been issued, the activity shall not be resumed until the violation is corrected and the cease and desist order is lifted. In addition, the Town Board or Zoning Administrator, may institute an injunction, abatement or other appropriate action to prevent, correct or remove such unlawful use, construction, reconstruction, alteration or maintenance.

Section 1400-100 Fees

In order to defray the administrative costs associated with the processing of applications for building and related permits, conditional use permits, variance requests, amendments, and appeals, the Mantrap Town Board has adopted a schedule of fees. The schedule of fees shall be posted at the office of the Township Clerk, and may be altered or amended only by ordinance of the Mantrap Town Board.

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