

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.

## **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.