

HINCKLEY TOWNSHIP

ZONING ORDINANCE

ADOPTED OCTOBER, 2000

**Revised 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2018, 2020
1-25-21, 1-26-2022, 2-9-2023, 8-10-2023**

Hinckley Township Zoning Ordinance

Hinckley Township Zoning Ordinance

Table of Contents

| | |
|--|----|
| Section 1 - TITLE AND APPLICATION..... | 1 |
| Subd. 1 - Title..... | 1 |
| Subd. 2 - Intent and Purpose | 1 |
| Subd. 3 - Standard Requirement..... | 1 |
| Subd. 4 - Minimum Requirements | 1 |
| Subd. 5 - Conformity with Provisions | 1 |
| Subd. 6 - Zoning Permits..... | 2 |
| Subd.6a - the Township fee schedule | 2 |
| Subd. 7 - Conditional Uses, Interim Uses, Variances, Amendments, Appeals | 3 |
| Subd. 8 - Uses Not Provided for Within Zoning Districts..... | 3 |
| Subd. 9- Separability | 3 |
| Section 2 - DEFINITION OF TERMS..... | 5 |
| Section 3 - ZONING DISTRICT PROVISIONS | 13 |
| Subd. 1 - Establishment of Districts | 13 |
| Subd. 2 – Map | 13 |
| Subd. 3 – Detachment | 13 |
| Subd. 4 - Zoning District Boundaries..... | 13 |
| Subd. 5 - District Regulations | 14 |
| Section 4 - (B-A-R) BUSINESS – AGRICULTURAL-RESIDENTIAL DISTRICT | 15 |
| Subd. 1 – Purpose..... | 15 |
| Subd. 2 – Permitted Uses | 15 |
| Subd. 3 - Conditional Uses..... | 16 |
| Subd. 4 - Accessory Uses | 17 |
| Subd. 5 - Lot Requirements..... | 17 |
| Subd. 6 - Front, Side, and Rear yard Setback Requirements..... | 17 |
| Subd. 7 - Maximum Building Height | 18 |
| Subd. 8 - Purpose | 18 |
| Subd. 9 - Exterior Use Requirements | 18 |
| Subd. 10 - Regulations on Screening | 19 |
| Subd. 11 - Performance Standards | 19 |
| Subd. 12 - Service Road Required | 20 |
| Section 5 - (S) SHORELAND DISTRICT..... | 21 |
| Subd. 1 - Purpose | 21 |
| Subd. 2 - Requirements | 21 |
| Section 6 - BUILDING REQUIREMENTS..... | 23 |
| Subd. 1 - Purpose | 23 |
| Subd. 2 - Building Standards..... | 23 |
| Subd. 3 - Building Size and Architectural Requirements | 23 |
| Subd. 4 - Dwelling Unit Restrictions | 23 |
| Subd.5 - Dwelling Size..... | 24 |
| Subd.6 - Dwelling Architectural Requirements | 24 |
| Subd. 7 - Accessory and Temporary Residences | 24 |
| Subd. 8 - Accessory Structures, Uses and Equipment..... | 26 |
| Subd. 9 - Development in Fire Prone Areas | 27 |
| Section 7 - OFF-STREET PARKING AND LOADING | 29 |
| Subd. 1 – Purpose..... | 29 |
| Subd. 3 - Site Plan | 29 |
| Subd. 5 - Reduction and Use of Parking and Loading Space | 30 |
| Subd. 6 - Maintenance..... | 30 |
| Subd. 7 - Stall, Aisle and Driveway Design | 30 |
| Subd. 8 - Number of Required Parking and Loading Spaces | 31 |
| Section 8 - GENERAL PROVISIONS | 33 |
| Subd. 1 – Purpose..... | 33 |

Hinckley Township Zoning Ordinance

| | |
|--|----|
| Subd. 2 - Drainage and Grading | 33 |
| Subd. 3 - Waters, Waterways | 33 |
| Subd. 4 - Fencing, Screening, and Landscaping..... | 34 |
| Subd. 5 - Nuisances Prohibited | 35 |
| Subd. 6 - Blighting Factors Prohibited | 35 |
| Subd. 7 - Lighting..... | 36 |
| Subd. 8 - Vision Clearance at Corners, Curb Cuts and Railroad Crossings | 36 |
| Subd. 9 - Storage and Disposal of Equipment, Items, Materials, and Waste | 37 |
| Subd. 10 - Performance Standards | 37 |
| Subd. 11- Administrative Standards..... | 37 |
| Section 9 - SIGN REGULATIONS | 39 |
| Subd. 1 - Purpose..... | 39 |
| Subd. 2 - Permits Required..... | 39 |
| Subd. 3 - Prohibited Signs..... | 39 |
| Subd. 4 - General Provisions..... | 40 |
| Subd. 5 - Permitted Signs..... | 41 |
| Subd. 6 - Off-Premise Business Directional Signs..... | 42 |
| Subd. 7 - Design, Construction and Maintenance | 42 |
| Subd. 8 - Nonconforming Signs | 42 |
| Section 10 - HOME OCCUPATIONS | 43 |
| Subd. 1 - Purpose..... | 43 |
| Subd. 2 - Permitted Home Occupations..... | 43 |
| Subd. 3 - Conditional Use Permit Required | 43 |
| Subd. 4 - Performance Standards | 43 |
| Subd. 5 - Review by Planning Commission | 43 |
| Section 11 - COMMERCIAL MINING, GRADING, LAND RECLAMATION..... | 45 |
| Subd. 1 - Commercial Mining..... | 45 |
| Subd. 2 - Grading and Land Reclamation | 46 |
| Section 12 - WIRELESS COMMUNICATION FACILITIES | 47 |
| Subd. 1 - Purpose..... | 47 |
| Subd. 2 - Applicability..... | 47 |
| Subd. 3 - Allowed as Conditional Use in the B-A-R Districts | 47 |
| Subd. 4 - Activities Not Requiring Zoning Permit..... | 47 |
| Subd. 5 - Additional Submittal Requirements..... | 48 |
| Subd. 8 - Landscaping | 50 |
| Subd. 9 - WCF Setbacks | 51 |
| Subd. 11 - Signs and Advertising..... | 51 |
| Subd. 13 - Existing Light Poles..... | 52 |
| Subd. 14 - Interference with Telecommunications..... | 52 |
| Subd. 15 - Inspection | 52 |
| Subd. 16 - Lawful Existing Antennas and Towers..... | 52 |
| Subd. 17 - Abandoned or unused Towers or Portions of Towers..... | 53 |
| Section 13 - NONCONFORMING BUILDINGS, STRUCTURES AND USES | 55 |
| Subd. 1 - Purpose..... | 55 |
| Section 14 - ADMINISTRATION AND ENFORCEMENT | 57 |
| Subd. 1 - Administrating Officer..... | 57 |
| Subd. 2 - Duties of the Zoning Administrator | 57 |
| Subd. 3 - Zoning Permit Required..... | 57 |
| Section 15 - BOARD OF APPEALS AND ADJUSTMENTS | 59 |
| Subd. 1 - Creation and Membership..... | 59 |
| Subd. 2 - Powers..... | 59 |
| Subd. 3 - Appeals | 59 |
| Section 16 - CONDITIONAL USES | 61 |
| Subd. 1 - Procedure | 61 |
| Subd. 2 - Expiration of Conditional Use Permit by Non-Use | 65 |
| Subd. 3 - Amended Conditional Use Permit | 65 |

Hinckley Township Zoning Ordinance

| | |
|---|----|
| Subd. 4 - Performance Bond | 65 |
| Section 17 - INTERIM USES | 67 |
| Subd. 1 - Interim Uses..... | 67 |
| Subd. 2 - Requirements for Interim Uses | 67 |
| Subd. 3 – Conditions | 67 |
| Subd. 4 – Procedure | 67 |
| Section 18 - AMENDMENTS | 69 |
| Subd. 1 - Initiation of Amendments | 69 |
| Subd. 2 - Procedure | 69 |
| Section 19 - VARIANCES..... | 73 |
| Subd. 1 - Procedures..... | 73 |
| Subd. 2 - Expiration of Variance..... | 74 |
| Subd. 3 - Performance Bond..... | 75 |
| Section 20 - APPEALS | 77 |
| Subd. 1 - Procedures..... | 77 |
| Subd. 2 - Expiration of Appeal by Non-Use | 77 |
| Section 21 - PENALTIES AND VIOLATIONS..... | 79 |
| Section 22 - DATE OF EFFECT | 81 |
| Section 23 - ZONING DISTRICT MAP..... | 83 |

Hinckley Township Zoning Ordinance

Hinckley Township Zoning Ordinance

The Board of Supervisors of Hinckley Township Ordains: An ordinance regulating the use of land; the location, size and use of buildings and structures; and the arrangement of buildings and structures on lots in Hinckley Township, Pine County, Minnesota, pursuant to the authority granted by Minnesota Statutes Section 462.357.

Section 1 - TITLE AND APPLICATION

Subd. 1 - Title

This Ordinance shall be known as the “Zoning Ordinance of Hinckley Township, Pine County, Minnesota,” except as referred to herein, where it shall be known as “this Ordinance.” Hinckley Township shall herein be known as “the Township.”

Subd. 2 - Intent and Purpose

The intent of this Ordinance is to protect the public health, safety and general welfare of the Township and its people through the establishment of minimum regulations governing land development and use. This ordinance shall divide the Township into use districts and establish regulations in regard to location, erection, construction, placement, reconstruction, alteration, and use of structures and land. Such regulations are established to provide convenience of access to property; to prevent congestion in the public right-of-way; to prevent overcrowding of land, and undue concentration of structures by regulating land, buildings, yards, and density of population; to provide for compatibility of different land uses; to provide for administration of this Ordinance; to provide for amendments; to prescribe penalties for violation of such regulations; and to define powers and duties of the Planning Commission/the Board of Appeals/Adjustments/Town Board of Supervisors in relation to this Ordinance.

Subd. 3 - Standard Requirement

Where the conditions imposed by any provisions of this Ordinance are either more or less restrictive than comparable conditions imposed by other ordinance, rule or regulation of the Town, County, State, or Federal Government, the ordinance, rule, or regulation of any conflict between this Ordinance with any private restrictions, protections, and covenants, the provision of this Ordinance shall be met, although it is not the intent of this Ordinance to invalidate any greater restrictions that may be included in such covenants.

Subd. 4 - Minimum Requirements

In their interpretation and application, the provisions of this Ordinance shall be held to the minimum requirements for the promotion of the public health, safety, and welfare.

Subd. 5 - Conformity with Provisions

No structure shall be erected, converted, enlarged, reconstructed, placed, or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Ordinance.

Hinckley Township Zoning Ordinance

Subd. 6 - Zoning Permits

Except as herein provided, no building, structure, or premises shall hereafter be used or occupied and no zoning permit shall be granted that does not conform to the requirements of this Ordinance.

Subd.6a - the Township fee schedule

All zoning requests are subject to this Ordinance. In addition to a zoning related permit fee, an applicant may be required to place an amount in escrow with the Township that the Township will use to reimburse itself for any actual professional fees it incurs directly related to processing and acting on the applicant's request. The escrow is used only to pay the Township's actual costs and any remaining amount is refunded to the applicant.

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| Zoning Permit | \$125.00 | |
| Zoning Permit after the fact | \$250.00 | The after the fact fee shall apply to anyone failing to obtain the required zoning permits or permissions prior to the undertaking a use, constructing a structure, or engaging in any other activity requiring a zoning permit or permission. |
| Zoning Permit after the fact fine | \$500.00 | The after the fact fine shall apply to anyone failing to obtain the required zoning permits within 14 days of being notified by certified mail of permit requirement. |
| Conditional Use Permit | The greater of \$750.00 and actual costs. | |
| Interim Use Permit | \$50.00 | |
| Variance | \$1,000.00 | |
| Zoning Amendment | \$750.00 | |
| Zoning Appeal | \$750.00 | |
| Monthly penalty | \$250.00 | Failure to comply with the zoning requirements after thirty (30) days of notice of noncompliance will result in a monthly penalty charged until compliance is reached. |
| Photocopies | \$.25 per page plus Clerk's actual costs at current hourly rate. | |
| Special Meeting | The greater of \$750.00 and actual costs. | |

Applicants are required to reimburse the Township for actual costs the Township incurs plus any professional or legal fees incurred directly related to their request and, as indicated above, an applicant may be required to provide a cash escrow the Township will use to reimburse itself for its costs.

The Township may collect any unpaid amounts on the taxes of property the applicant owns in the Township as a service charge pursuant to Minnesota Statutes, section 366.012, or such other law as may apply.

Hinckley Township Zoning Ordinance

Subd. 7 - Conditional Uses, Interim Uses, Variances, Amendments, Appeals

Nothing within this Ordinance shall be construed so to deny any property owner his rights to apply for a conditional use permit, interim use permit, variance, amendment, or appeal. Zoning permits are sold, setbacks are checked, only then can you apply for a variance, as a last resort. Variances must be applied for before any work starts.

Subd. 8 - Uses Not Provided for Within Zoning Districts

Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited, unless specifically exempted from local regulation by state or federal laws. In the case of uses neither specifically permitted nor prohibited, the Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use was acceptable, what zoning district would be most appropriate, and the determination of appropriate conditions and standards relating to development of the use. The Planning commission, Town Board or property owner may initiate an amendment to this Ordinance to provide for the particular use.

Subd. 9- 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:

- A. If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provision of this Ordinance not specifically included in said judgment.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect the application of said provisions to any other property, building, or structure not specifically included in said judgment.

Hinckley Township Zoning Ordinance

Section 2 - DEFINITION OF TERMS

The following words and terms wherever they occur in this Ordinance, shall be interpreted as herein defined.

Accessory building or use. A subordinate building, structure or use which is located on the same lot on which the main building or use is situated and is reasonably necessary and incidental to the conduct of the primary or principal use of such building or main use.

Accessory utility buildings, structures for wireless communication facilities. A building or cabinet-like structure located adjacent to or in the immediate vicinity of a commercial wireless telecommunication tower or antenna to house equipment customarily incidental to the receiving or transmitting of wireless broadcasts, cellular telephone calls, voice messaging and paging services.

Agriculture uses. Those uses commonly associated with the growing of produce and raising of livestock on farms. These uses include: field crop farming; pasture; the production of hay, fruit, trees, plants, shrubs, or flower nursery without building; truck gardening; roadside produce stands in season; and livestock raising and feeding.

Antenna array. One or more rods, panels, discs or similar devices used for transmission or reception of radio frequency signals, which may include omni-directional antenna (rod or whip), directional antenna (panel), and parabolic antenna (disc or dish).

Automobile wrecking or junkyard, salvage operations. Any parcel on which there are two (2) or more motor vehicles are located which are:

- A. unlicensed for use upon the highways of the State of Minnesota, or
- B. unusable or inoperable because of lack of, or defects in the component parts, or
- C. unusable or inoperable because of damage from collision, deterioration, alteration or other factors, or
- D. beyond repair and, therefore, not intended for future use as a motor vehicle; or,
- E. being retained on the property for possible use of salvageable parts;

Or any land used for commercial wrecking or storing of such motor vehicles and parts thereof; and including commercial salvaging and scavenging of any goods, articles, merchandise, or structures.

Basement. A portion of a building located partially underground but having more than one-half (1/2) its floor to ceiling height below the average land grade.

Bed and breakfast inn. An owner-occupied dwelling having no more than four (4) guest rooms for short-term lodging and where meals are provided for guests for compensation.

Buildable area. The portion of a lot remaining after required yards have been provided, which is capable of supporting the proposed structure(s).

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Building height. The vertical distance between the highest adjoining ground level at the building or ten (10) feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

Building line. A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend in accordance with setback provisions.

Hinckley Township Zoning Ordinance

Building setback. The minimum horizontal distance between the building and the specified lot line as described in this Ordinance.

Campground. An area containing campsites or camping spots for tent, trailer, and recreational vehicle camping.

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

Co-location/site sharing. Use of a common Wireless Communication Facility (WCF) or common site by two or more wireless license holders or by one wireless license for more than one type of communications technology and/or placement of a WCF on a structure owned or operated by a utility or other public entity.

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

Commercial recreation. Bowling alley, cart track, golf course, pool hall, vehicle racing or amusement, dance hall, skating, swimming, tavern, theater, shooting range, gun clubs, hunting preserves, boat rental, amusement rides, campgrounds, deer park, and similar uses for which fees are charged for admission or use of the facility.

Commercial Wireless Telecommunication Services. Licensed commercial wireless telecommunication services including cellular, person communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public

Conditional Use. A use, which because of special problems of control requires reasonable, but special limitations specific to the use, which eliminate or minimize the incompatibility with other permitted uses of the district for the protection of the public health, safety and welfare, and the integrity of the Township Comprehensive Plan.

Conditional use permit. A permit issued by the Town Board in accordance with procedures specified in this Ordinance, as well as its compatibility with the Comprehensive Plan, as a flexibility device to enable the Board to assign conditions to a proposed use after consideration of adjacent uses and their functions and the special problems which the proposed use presents.

Deck. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three (3) feet above ground.

District. A section or sections of the Township for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted herein.

Dwelling. A building or portion thereof, designated exclusively for residential occupancy, including one-family, two-family and multiple-family dwellings, seasonal dwellings, manufactured housing, but not including hotels, motels, and boarding houses.

Dwelling site. A designated location for residential use by one or more of persons using temporary or movable shelter, including camping and recreational vehicle sites.

Hinckley Township Zoning Ordinance

Dwelling, single family. A detached dwelling unit designed for occupancy of one (1) family.

Earth sheltered buildings. Buildings constructed so that more than fifty percent (50%) of the exterior surface area of the building, excluding garages and other accessory buildings, is covered with earth. Partially completed buildings shall not be considered earth sheltered.

Engineer. A qualified professional engineer registered with the State of Minnesota

Essential services. Underground or overhead gas, electrical, steam or water distribution systems; collection, communication, supply or disposal system including poles, wires, mains, drains, sewer, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants or other similar equipment and accessories in conjunction therewith; but not including buildings, transmission services, or wireless communication facilities

Extractive use. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, sections 93.44 to 93.51.

FAA. The Federal Aviation Administration

FCC. The Federal Communications Commission.

Family. An individual or two or more persons related by blood or marriage or a group of not more than five unrelated persons living together on the premises or in a single housekeeping unit.

Farm. A tract of land which is principally used for commercial agriculture, all of which is owned and/or operated by a single family, farm corporation, individual or corporation.

Fence. A barrier forming a boundary to, or enclosing some area.

Floor Area. The sum of the gross horizontal area of all of the floors of the building, measured from the exterior faces of the exterior walls.

Forestland conversions. The clear cuttings of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Forestry. The management, as logging of a forest, woodland, or plantation, and related research and educational activities, including the construction, alteration or maintenance of wood roads, skid roads, landings, and fences.

Garage, private. An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families residing upon the premises, and in which no business service or industry is carried on; provided that not more than one-half (1/2) of the space may be rented for the private vehicles of persons not resident on the premises, except that none of the space in a garage of one (1) or two (2) car capacity may be so rented.

Hardship - undue. The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls and the plight of the landowner is due to circumstances unique to his property not caused by the landowners.

Hinckley Township Zoning Ordinance

Height, tower. When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

Home occupation. Any occupation or profession carried on by a member(s) of the family residing on the premises, provided that the use is clearly incidental and secondary to the main use of the premises for dwelling purposes and does not change the character thereof.

Industrial use - light. Any establishment, occupation, employment, or enterprise where the manufacturing, commercial salvaging, commercial recycling, storage, or warehousing of products and materials occur in such a manner and scale as to not require extraordinary water, wastewater, transportation services; or generate significant environmental impacts such as noise, smoke, vibration as to transcend property boundaries and adversely impact adjacent land uses; or exceed the capacity of the existing public facilities or services.

Kennel. Any place where four (4) or more dogs over six (6) months of age are kept, boarded, bred or offered for sale, except veterinary clinics. Kennels shall be considered a commercial use or conditional use for the purposes of this Ordinance.

Lot. A parcel of land designated by plat, metes and bounds, registered land survey, auditor's plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation thereof, to be occupied by one (1) principal building or use and its accessory buildings, together with such open spaces as are required under the provisions of this Zoning Ordinance; having not less than the minimum area required by this Zoning Ordinance for a building site in the district in which such lot is situated; and having its principal frontage on a street or a proposed street approved by the Town, or having not less than a thirty-three (33) foot permanent individual access easement for the purpose of access to a road or proposed road approved by the Township.

Lot area. The area of a horizontal plane within the lot lines.

Lot, corner. A lot situated at the junction of and abutting on two (2) or more intersecting roads; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty-five (135) degrees or less.

Lot, frontage. The front of a lot shall be that boundary abutting a public right-of-way.

Lot, line. A property boundary line of any lot held in a single or separated ownership, except that where any portion of the lot extends into the abutting road, the lot line shall be deemed to be the road right-of-way.

Lot, of record. A parcel of land, whether subdivided or otherwise legally described of record as of the effective date of this Ordinance, or approved by the Town Board as a lot subsequent to such date.

Lot, width. The shortest horizontal distance between the side lot lines measured at the right angles at the building line and front lot line.

Manufacturing. All uses which include the compounding, processing, packaging, treatment, or assembly of products and materials.

Hinckley Township Zoning Ordinance

Mining, operation, commercial. The removal from the land and sale of one thousand (1000) cubic yards of stone, sand, gravel, peat, or other material for commercial, industrial, or governmental purposes.

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 and now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

Off-street loading space. A space accessible from a public road, in a building or on the lot, for the use of trucks while loading or unloading merchandise or materials. Such space shall be of such size as to accommodate one (1) truck of the type typically used in the particular business.

Open space recreational uses. A recreational use particularly oriented to and utilizing the outdoor character of an area; including hiking and riding trails, primitive campsites, campgrounds, waysides, parks and recreational areas.

Parking space. An area of not less than nine (9) feet in width an nineteen (19) feet in length, enclosed in the main building, in an accessory building, or unenclosed, sufficient in size to store one (1) automobile which has adequate access to a public road and permitting satisfactory ingress and egress of an automobile.

Permitted use. A use which may be lawfully established in a particular district or districts, provided it conforms to all requirements, regulations, and performance standards, (if any) of such districts.

Planning Commission. The planning agency created by ordinance by the Town Board.

Principal use. The primary of main use of land or buildings as distinguished from subordinate, incidental or accessory uses.

Protected waters. Any waters of the State which serve a beneficial public purpose, as defined in Minnesota Statutes, Section 103G.201. A body of water created by a private user where there was no previous shore land, as defined herein, for a designated private use authorized by the State of Minnesota shall be exempt from the provisions of these regulations.

Public Road. For the purpose of this Ordinance public roads shall include only those roads which are owned by the Township, county, state, or federal government, or are dedicated or under easement for public use.

Public uses. Uses owned or operated by a municipality, school district, town, county, state or other governmental units.

Public utility. Persons, corporations, or governments supplying gas, electric, transportation, water, sewer, or landline telephone service to the general public. For the purpose of this Ordinance, commercial wireless telecommunication service facilities shall not be considered public utility uses, and are defined separately.

Recreational use. Recreational use particularly oriented to and utilizing the outdoor character of an area; including hiking and riding trails, primitive campsite, campgrounds, waysides, parks and recreation areas.

Hinckley Township Zoning Ordinance

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

Sewage treatment system. Any system for the collection, treatment and dispersion of sewage including but not limited to septic tanks, soil absorption systems and drain fields.

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

Sign. A structure or device designed or intended to convey information to the public in written or pictorial form.

Sign, area. The entire area within a continuous perimeter enclosing the extreme limits of sign display, including any frame or border.

Sign, freestanding. A sign supported by one or more upright poles, columns, or braces placed in or on the ground and not attached to any building or structure.

Sign, off-premise. A sign for which the message does not apply to the premises or any use of the premises where it is displayed or located.

Sign, on premise. A sign for which the message applies to the premises or any use of the premises where it is displayed or located.

Sign, wall. Signs applied to the outside of a building, parallel to the face of a building and supported throughout its length by such building; or a sign applied to the valance of awning, canopy, or marquee; or a sign applied on a window, which is visible from a right-of-way.

Slope. The degree of deviation of a surface from the horizontal, usually expressed in percent or degree.

Steep slope. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having average slopes over twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more that are not bluffs.

Structure. Any building or attachment, which is built, constructed or erected on the ground or attached to the ground; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character, including decks and signs; except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

Subdivision. Improved or unimproved land or lands which are divided for the purpose of ready sale or lease, or divided successively within a five year period for the purpose of sale or lease, into three or more lots or parcels of less than ten acres each, contiguous in area and which are under common ownership or control.

Hinckley Township Zoning Ordinance

Substandard use. Any use existing prior to the date of this Ordinance which is permitted within the applicable zoning district but does not meet the minimum lot area, frontage, setbacks, water frontage length, or other dimensional standards of this Ordinance.

Support Structure. A structure designed and constructed specifically to support an antenna array, and may include a monopole, self-supporting tower, guy-wire support tower and other similar structures. Any device (attachment structure) shall be excluded from the definition of and regulations applicable to support structure.

Tower. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like; except for television, and radio towers for private use and not exceeding sixty (60) feet in height or be located closer to the property line than the height of the tower. The term includes the structure and any support thereto.

Tower, co-locate. A tower designed for two or more commercial wireless telecommunications service providers.

Use. The purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this Ordinance.

Variance. The waiving action of the literal provisions of the zoning Ordinance in instances where their strict enforcement would cause undue hardship because of physical circumstances unique to the individual property under consideration.

Wetlands. An area where water stands near, at, or above the soil surface during a significant portion of most years, saturating the soil and supporting a predominantly aquatic form of vegetation and which may have the following characteristics:

- A. Vegetation belonging to the marsh (emergent aquatic) bog, fen, sedge, meadow, shrub land, southern lowland forest (lowland hardwood), and northern lowland forest (conifer swamp) communities. (These communities correspond roughly to wetland types 1, 2, 3, 4, 5, 6, 7, and 8 described by the United States Fish and Wildlife Service, Circular 39, "Wetlands of the U.S.", 1956).
- B. Mineral soils with grey horizons or organic solids belonging to the Histosol order (peat and muck).
- C. Soil which is water logged or covered with water at least three (3) months of the year. Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands, and property, may be shallow water bodies, the waters of which are stagnant or actuated by very feeble currents, and may at times be sufficiently dry to permit tillage but would require drainage to be made arable. The edge of a wetland is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

Hinckley Township Zoning Ordinance

Wireless Communications. Wireless communications shall mean any personnel wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications, services including cellular person communications services (PCSC), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed.

Wireless Communication Facility (WCF). A WCF is any unstaffed facility for the transmission and/or reception wireless telecommunication services, usually consisting of an antenna array, connection cables, accessory utility building or structure, and a support structure to achieve the necessary elevation.

Yard. An open space on the lot which does not contain structures. A yard extends along a lot line at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located.

Yard, front. A yard extending across the front of the lot between the side lot lines and lying between the front line of the lot and the nearest line of the building.

Yard, rear. A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

Yard, side. A yard between the side line of the lot and the nearest line of the building and the extending from the front yard of the lot to the rear yard.

Zoning Administrator. A person appointed by the Town Board to administer and enforce the Zoning Ordinance.

Zoning Map. The maps or map incorporated into this Ordinance as part thereof, and as amended, designating the zoning districts.

Hinckley Township Zoning Ordinance

Section 3 - ZONING DISTRICT PROVISIONS

Subd. 1 - Establishment of Districts

The following zoning districts are hereby established within the Township.

- B-A-R Business-Agricultural-Residential District
- S Shorelands District – Defined as 300 feet from shore.

All land within the Township is zoned Business-Agricultural-Residential except for any land designated as Shorelands.

Subd. 2 – Map

The location and boundaries of the districts established by this Ordinance are hereby set forth on the zoning map entitled “Zoning Map”, a copy of which is on file with the Zoning Administrator. Said maps and all of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this Ordinance by reference.

Subd. 3 – Detachment

In the event of changes in the Township boundaries from removing territory from the Township or adding territory to the Town, district boundaries shall be construed as moving with Township boundaries.

Subd. 4 - Zoning District Boundaries

- A. Boundaries indicated as approximately following the center lines of streets, highways, alleys, or railroad lines shall be construed to follow such center lines
- B. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, lakes or other bodies of water shall be construed to follow such center lines.
- D. Boundaries indicated as approximately following the section lines shall be construed as following such lines.
- E. Where a district boundary line divides a lot which was in a single ownership at the time of passage of this Ordinance, the extension of the regulations for either portion of the lot may be interpreted by the Zoning Administrator upon request of the owner.
- F. The exact location of all district boundaries shall be interpreted by the Zoning Administrator, subject to appeal as provided in Section 21 of this Ordinance.

Hinckley Township Zoning Ordinance

Subd. 5 - District Regulations

The regulations of this Ordinance within each district shall be minimum regulations, and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

- A. No building, structure or land shall hereafter be used or occupied, except in conformity with all of the regulations herein specified for the district in which it is located.
- B. No building or other structure shall hereafter be erected, placed or altered to exceed the height or bulk to accommodate or house a use, to occupy a greater percentage of lot area, and to have narrower or smaller yards other than herein required, or in any other manner contrary to the provision of this Ordinance.
- C. 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.

Hinckley Township Zoning Ordinance

Section 4 - (B-A-R) BUSINESS – AGRICULTURAL-RESIDENTIAL DISTRICT

Subd. 1 – Purpose

The Business-Agricultural-Residential District is intended to provide a district which will allow suitable areas of the Township to be retained and utilized in business, agricultural and residential uses, prevent scattered farm uses from developing improperly, promote orderly development, and secure economy in government expenditures for public utilities and services.

Subd. 2 – Permitted Uses

The following uses are permitted:

- A. Single-family dwellings
- B. Farm buildings which are used for purposes related to the operation of the farm.
- C. Farm production which shall include the raising of crops and livestock or animals not typically regarded as domestic pets for sale, profit, or pleasure, subject to:
 - 1. The number of animals shall be limited as to not exceed one animal unit per acre of land: (Acres counted for farm production shall be those owned, leased, or rented by a producer for feed or sale)

| Animal | Units |
|--|-------|
| Poultry, fowl | .01 |
| Sheep, goats | .25 |
| Cows, horses, swine | 1.00 |
| Animals not specified shall be subject to the standards for similar sized animals. | |

- 2. The number of allowed animal units can be exceeded only in the case of births from an existing allowed animal on the premises, in which case, the newborns will not be considered in the calculation of animal units until three (3) months old for poultry and six (6) months old for all other animals
- 3. The number of allowed dogs will be four (4) per residence. If you have a vicious dog (i.e. pit bull, Doberman, etc.) that harms, bothers, or threatens any other resident, that resident should call the sheriff and file a report. This reflects the Township Policy that states each resident is his or her own pawn master.
- D. Greenhouse or nursery.
- E. Forestry.
- F. Wildlife areas, forest preserves, public parks owned or operated by a government agency or nonprofit organization, and other open space uses, or club or commercial hunting preserves.
- G. Temporary or seasonal roadside stands for sale of agricultural products.

Hinckley Township Zoning Ordinance

H. Single family dwellings.

All dwelling lots shall have not less than three hundred thirty (330) feet of road fronting a public road or have an individual permanent access easement to an existing public road of not less than thirty-three (33) feet in width. If property is located on a fractional correction line (north and west side of the Township), lot width cannot be less than three hundred (300) feet.

Subd. 3 - Conditional Uses

The following uses may be permitted upon the issuance of a conditional use permit as provided for Section 17:

- A. Commercial recreational parks, campgrounds, and commercial recreational facilities including club or commercial hunting preserves.
- B. Golf courses, country clubs, tennis courts, swimming pools and similar recreational facilities which may be privately or club-owned which serves members or the general public.
- C. Organized group camps.
- D. Commercial extraction of sand, gravel, soil, sod, minerals, or rock.
- E. Churches.
- F. Governmental or private club buildings.
- G. Cemeteries.
- H. Kennels or fur-bearing animal production (on not less than 10 acre lot).
- I. Bed and breakfast inns.
- J. Home occupations as described in Section 11, Subd. 3.
- K. Retail Stores.
- L. Service establishments.
- M. Office buildings
- N. Light manufacturing
- O. Any other commercial or industrial use determined by the Planning Commission to be of the same general character as the uses allowed for within the district which conform to the purpose and performance standards applicable to this district.

Hinckley Township Zoning Ordinance

Subd. 4 - Accessory Uses

The following uses are permitted accessory uses:

- A. Any structure or use which is incidental to the permitted principal use including garages, sheds, fencing, and landscaping.
- B. Recreational facilities which serve the residents of the principal use.
- C. Operation and storage of vehicles, equipment and machinery which is incidental to the permitted principal use.
- D. Home occupations subject to Section 11, Subd. 2.
- E. Essential services
- F. Business Accessory Uses.
 - 1. Off-street parking as regulated by Section 8
 - 2. Off-street loading as regulated by section 8.
 - 3. Fencing, screening and landscaping as permitted and regulated by Section 9, Subd. 4.
- G. Residential Accessory Uses

Subd. 5 - Lot Requirements

- A. Lot Area - Residences and Agriculture:
A lot area of not less than ten (10) acres is required, of which an area of at least one (1) contiguous acre, or the area necessary to support the principal and accessory structures, whichever is the larger is determined to be buildable.
- B. Lot Width. A lot width of not less than three hundred thirty (330) feet at the building line and front lot line is required. If property is located on a fractional correction line (north and west side of the Township), lot width cannot be less than three hundred (300) feet.
- C. Business Lot Size: A lot area of not less than two and one-half (2.5) acres is required for all business lots.

Subd. 6 - Front, Side, and Rear yard Setback Requirements

- A. Front yard. A front yard is required and shall be not less than the following distances between the right-of-way and building line:
 - 1. State trunk highway – contact the state for current requirements
 - 2. County or county state-aid highways – contact the county for current requirements.
 - 3. Local roads (which are part of a development and only function is to provide access to fronting lots, or which serve as an extension of the City street system) – contact city for current requirements.

Hinckley Township Zoning Ordinance

4. In the case of property not fronting a public road – one hundred (100) feet from adjoining property.
 5. Business must provide a front yard of one hundred (100) feet which shall be devoted exclusively to landscaping except for necessary access drives.
 6. the Township roads – seventy-five (75) feet from right of way.
- B. Side Yard. Two side yards are required, each having a width of not less than fifty (50) feet.
- C. Rear yard. A rear yard with a depth of not less than fifty (50) feet is required from rear lot line and nearest line of building is required.

Subd. 7 - Maximum Building Height

Building heights shall not exceed thirty-five (35) feet except for agricultural buildings. For business purposes, building height shall not exceed three (3) stories or forty-five (45) feet.

The following is applied to business use only:

Subd. 8 - Purpose

The business district is to provide for certain retail, service and light industrial uses which can be adequately served by on-site water and sanitary sewer systems.

Subd. 9 - Exterior Use Requirements

- A. Exterior storage, service, manufacturing, or processing as principal or accessory use is allowed provided that:
1. The storage area is fenced and screened from view from adjacent properties and the public right-of-way is compliance with Subd. 8 of this Section.
 2. These areas are to be fenced or screened from view of residential uses within residential districts in compliance with Subd.8. of this Section.
 3. The storage area is grassed or surfaced to control dust.
 4. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences.
 5. The use does not take up parking space as required for conformity to this Ordinance.
- B. Exterior sale or rental, as a principal or accessory use is allowed provided that:
1. These outside areas are fenced or screened from view of residential uses in compliance with Subd. 8 of this Section.
 2. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences.

Hinckley Township Zoning Ordinance

3. Area is grassed or surfaced to control dust.
4. Does not take up parking space as required for conformity to this Ordinance.

Subd. 10 - Regulations on Screening

- A. Any required screening shall be by a fence or vegetative screening of not less than seven (7) feet in height
- B. Walls, fences or planting screens of lesser heights may be permitted by the Board of Adjustment and Appeals if there is a finding that the nature or extent of the use being screened is such that a lesser degree of screen will as adequately promote and protect the use and enjoyment of the properties within the District, or there is a finding that a screening of the type required by this Ordinance would interfere with the provision of adequate amounts of light and air to same said properties.
- C. All required screening devices shall be designed so that they are architecturally harmonious with the principal structures on the site and they shall be properly maintained so as not to become unsightly, hazardous, or less opaque than when originally constructed.

Subd. 11 - Performance Standards

It is the intent of this subdivision to provide that business and related activities shall be established and maintained with proper appearance from streets and adjoining properties and to provide that each such permitted use shall be a good neighbor to adjoining properties by the control of the following:

- A. Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled so not to become objectionable due to intermittence, beat, frequency, shrillness or intensity. At the property line, the sound pressure level of noise radiated continuously from a facility shall not exceed the values given below.

Maximum permissible sound pressure levels of specified points of measurements for noise radiated continuously from a facility.

| Bank Cycles Per Second (Frequency) | Maximum Permitted Sound Level (Decibels) |
|---------------------------------------|---|
| 20-75 | 72 |
| 75-150 | 67 |
| 150-300 | 59 |
| 300-600 | 52 |
| 600-1200 | 46 |
| 1200-2400 | 40 |
| 2400-4800 | 34 |
| Over 4800 | 32 |

- B. Odor. No activity or operation shall cause at any time the discharge of toxic, noxious or odorous matter beyond the limits of the immediate site where it is located in such concentrations as to be obnoxious or otherwise detrimental to, or endanger the public health, welfare, comfort or safety, or cause injury to property or business.

Hinckley Township Zoning Ordinance

- C. Glare. Glare, whether directed or reflected, such as from floodlights, spotlights or high temperature processes, and as differentiated from general illumination, shall not be visible beyond the site of origin at any property line.
- D. Exterior Lighting. Any lights used for exterior illuminations shall be directed away from adjacent properties.
- E. Smoke. The Ringleman Smoke Chart, published by the United States Bureau of Mines, shall be used for measuring smoke at the point of emission. Smoke not darker or more opaque than No. 4 on said chart may be emitted, except that smoke darker or more opaque than No. 2 on said chart may not be emitted for periods longer than four (4) minutes in any thirty (30) minutes. These provisions, applicable to visible gray smoke of a different color but an equivalent apparent opacity. This provision does not pertain to special events such as permitted fires.
- F. Dust. Solid or liquid particles shall not be emitted at any point in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air. For measuring the amount of particles in gasses resulting from combustion, standard corrections shall be applied to a stack temperature of five hundred degrees Fahrenheit (500) and fifty percent (50%) excess air.
- G. Fumes or Gases. Fumes or gasses shall not be emitted at any point in concentrations or amounts that are noxious, toxic, or corrosive.
- H. Hazard. Every operation shall be carried on in accordance with local fire & safety codes.
- I. Water Supply. The design and construction of water supply facilities and water supply sources shall be in accordance with local and Minnesota State Department of health standards and requirements.
- J. Waste. All sewage and industrial wastes shall be treated and disposed in such manner as to comply with Minnesota State Department of Health standards and requirements, Minnesota Pollution Control Agency standards and requirements, and local codes.
- K. Investigations, Tests. In order to assure compliance with the performance standards set forth above, the Planning Commission may require the owner or operator of any permitted use to make such investigations and tests as may be required to show adherence to the performance standards.

Subd. 12 - Service Road Required

The Township may require the construction of a service road, or the dedication or reservation of land for a future service road, or joint access in order to provide for convenient access, public safety or to preserve the functional purpose of the adjacent street or highway.

Hinckley Township Zoning Ordinance

Section 5 - (S) SHORELAND DISTRICT

Shoreland District is defined as three hundred (300) feet from shore.

Subd. 1 - Purpose

The (S) Shoreland District is hereby established to regulate the development of shorelands of public waters within the Township pursuant to Laws of Minnesota

Subd. 2 - Requirements

All requirements of the Pine County Shorelands Management Ordinance, as amended, for the management of shoreland areas shall apply to the Shoreland District within the Township and shall be administered by Pine County

Hinckley Township Zoning Ordinance

Section 6 - BUILDING REQUIREMENTS

Subd. 1 - Purpose

The purpose of this Section is to establish building requirements and standards which apply to all districts within the Township to assure compatible land uses; to prevent blight and deterioration; and to enhance the health, safety and general welfare of the area.

Subd. 2 - Building Standards

- A. Any person desiring to improve property shall submit to the Zoning Administrator information on the location, and dimensions of existing and proposed buildings, location of easements crossing the property encroachments, and any other information which may be necessary to insure conformance to Township Ordinances.
- B. No buildings shall be permitted on areas considered as wetlands, flood plain, peat or muck soils, or areas having poor drainage, or areas where the water table depth is less than four (4) feet.
- C. Not more than one (1) principal building shall be located on a lot, except in cases described herein. In case of doubt or any other question or interpretation, the decision of the Zoning Administrator shall be final, subject to the right of appeal to the Board of Appeals and Adjustment.

Subd. 3 - Building Size and Architectural Requirements

The following size and architectural standards shall apply to all districts unless otherwise specified:

- A. Design Standards. The architectural appearance and function of any building and site shall not be so dissimilar to the existing buildings or area as to constitute a blighting influence. Earth sheltered buildings are allowed in compliance with all other zoning provisions promulgated pursuant to M.S. 462.357.
- B. Height Exceptions. The building height limits established shall not apply to agricultural buildings, grain elevators, nor to architectural projections of buildings such as belfries, cupolas, domes, spires, chimneys, flues or to similar structures extending above the roof of any building and not occupying more than twenty-five (25) percent of the area of such roof.
- C. Any building larger than 8' x 8' or sixty-four (64) square feet – floor square footage, including decks, patios, and storage containers shall require a zoning permit from the Zoning Administrator.

Freestanding structures such as water tanks, poles, towers and other structures for essential services, monuments, flag poles shall be exempt from the building height requirements of the district in which it is located.

Subd. 4 - Dwelling Unit Restrictions

- A. No tent or accessory building (except as provided in B) shall at any time be used as an independent residence or dwelling unit.

Hinckley Township Zoning Ordinance

- B. Basements and garages may be used as temporary living quarters or rooms while the permanent residence is being constructed for up to twelve (12) months with a single twelve month extension.
- C. Tents, playhouses, or similar structures may be used for play or recreational purposes.
- D. Existing cellars or basements used as an independent dwelling unit shall have the status of a nonconforming use, subject to the provisions of Section 14 of this Ordinance.

Subd.5 - Dwelling Size

All dwellings shall have a minimum finished livable space of at least eight hundred fifty (850) square feet and a minimum width of fourteen (14) feet, measured between the narrowest outside parallel walls. Additions to manufactured homes shall not be considered in determining dwelling area and width requirements. All dwellings must not be older than ten (10) years when moved into the Township. Temporary dwellings as allowed for in Subd. 7 of this Section are exempted from this requirement.

Subd.6 - Dwelling Architectural Requirements

The following architectural requirements shall apply to all dwellings:

- A. Dwelling shall be placed and anchored on a frost-free permanent foundation forming a complete enclosure around the perimeter of the structure, or have a frost-free perimeter foundation with perimeter skirting enclosing the foundation, or be placed on a floating slab with skirting enclosing the perimeter of the dwelling. All foundations or floating slabs shall conform to the Uniform Building Code requirements.
- B. Exterior walls shall have the appearance of wood or masonry regardless of their actual composition.

Temporary dwellings as allowed for in Subd. 7 of this Section are exempted from these requirements.

Subd. 7 - Accessory and Temporary Residences

- A. A temporary interim residence permit or conditional use permit may be issued for an accessory residence to be placed or constructed on the same lot as an existing principal residence in the following cases:
 - 1. Temporary (Interim) Accessory Residence during Construction of Permanent Dwelling. In all districts, a twelve (12) month interim permit, renewable for one additional twelve (12) month period, may be issued to allow a temporary housing unit to be placed and occupied on the same site as the permanent dwelling is being constructed, provided:
 - a. The zoning permit for the permanent dwelling has been issued.
 - b. An approved sewer system has been installed on the site to serve the temporary home.

Hinckley Township Zoning Ordinance

- c. The accessory residence shall not be subsequently divided from the original parcel or lot unless all density, lot and setback provisions of this Ordinance are met.
 2. Accessory Residence for Farm Employees. A temporary interim residence permit for a temporary housing unit or a conditional use permit for a permanent residence may be issued to allow an accessory residence to be placed or constructed and occupied on a farm to provide housing for a person(s) or family which is actively engaged in the operation of the farm, provided:
 - a. The major portion of the livelihood of the person(s) or family residing is derived from the farm.
 - b. An approved sewer system exists on the site to accommodate the additional structure.
 - c. The accessory residence shall not be subsequently divided from the farm unless all density, lot and setback provisions of this Ordinance are met.
 3. Temporary Accessory Residence for Health Care Reasons. A twelve (12) month, renewable permit may be issued to allow a manufactured home to be placed and occupied on the same lot as the principal residence when the person(s) occupying the accessory residence or principal residence requires close supervision due to health reasons, yet are capable of independent living, provided:
 - a. A documented medical condition must exist requiring the need for a closely supervised independent living arrangement.
 - b. A county-approved sewer system exists on the site to accommodate the additional structure.
 - c. The accessory residence shall not be subsequently divided from the original parcel or lot unless all lot, density and setback provisions of this Ordinance are met.
 4. Temporary Dwellings. Temporary dwellings other than those provided for in Subd. 7. A. 1, 2 and 3 of this Section, including travel trailers, campers, tents, recreational vehicles, and other vehicles or structures which are adapted for living and may be reasonably transported, may only be placed on a parcel for dwelling purposes for a period not to exceed thirty (30) consecutive days or more than thirty (30) days of a sixty (60) day period. Only one temporary dwelling may be placed and occupied on a parcel or lot, except for short term periods such as family reunions, and visits which do not exceed a period of fourteen (14) days. Any deviation from the above restrictions shall be allowed only upon the issuance of an interim use permit for a dwelling(s).
- B. When issuing or renewing a temporary (interim) accessory dwelling permit or issuing a conditional use permit for an accessory residence, the Town Board may place additional, reasonable conditions on the permit to further the purpose and intent of this Ordinance. The failure to comply with these conditions may result in the revocation of said permit.
- C. When conditions change, whereby the purpose and conditions of this Section are no longer met, the temporary (interim) accessory residences or accessory farm residence as provided for in paragraphs 1, 2 and 3 of this subdivision may remain and be occupied through the term of the permit, however, the temporary accessory residence shall be removed from the lot within thirty (30) days of the expiration date of the permit.

Hinckley Township Zoning Ordinance

Subd. 8 - Accessory Structures, Uses and Equipment

The following requirements apply to all districts, unless otherwise noted.

- A. **Part of Principal Building.** An accessory building shall be considered an integral part of the principal building if it is connected to the principal building.
- B. **Permitted After Principal Building.** No accessory building or structure other than a fence, essential services, or temporary construction office shall be permitted on any lot prior to the time of construction of the principal building to which it is accessory, except a private garage, which prior to construction of the residence can be used only for storage purposes pertaining to the construction of the principal structure. Agricultural Buildings shall not be subject to this paragraph.
- C. **Sanitary Facilities.** No sanitary facilities are permitted within an accessory building prior to the construction of the principal structure, except for agricultural buildings.
- D. **Appearance.** No accessory structure shall be of such an appearance as to constitute a blighting condition or be in such disrepair or deterioration as to be a threat to the health and safety, or to cause a depreciation in value of adjacent properties.
- E. **Setbacks.** Accessory structure setbacks are as follows:
 - 1. Structures of greater than one hundred and twenty (120) square feet in floor area shall be located from all lot lines in accordance with yard requirements set forth for principal structures within this Ordinance. In cases where the principal structure is located less than the required distance from lot lines, the accessory structure setback may be located at the same distance as the principal structure upon review and determination that the lesser setback does not adversely affect adjacent properties.
 - 2. Structures of one hundred and twenty (120) square feet of floor area or less shall be located twenty-five (25) feet or more from all lot lines of adjoining lots, except as otherwise permitted within this Ordinance.
- F. **Location.** Accessory structures shall be located as follows:
 - 1. No accessory structures other than terraces, fences, patios, decks or similar structures shall be located in the front yard, except in the case of riparian lots the garage may be located between the road and principle building.
 - 2. Structures shall not be located in an easement.
- G. **Manufactured Homes Used as Accessory Structure.** The use of manufactured housing units for nonresidential accessory buildings is prohibited.

Hinckley Township Zoning Ordinance

Subd. 9 - Development in Fire Prone Areas

- A. Purpose. The purpose of this Section is to establish specific regulations for developments located in fire prone areas. These regulations are established to minimize the chances of loss of life and property due to wild fires.
- B. Fire Prone Areas. Fire prone areas are areas which contain natural conifer stands or conifer plantations, which due to flammability of the tree needles, associated ground vegetation, accumulation of duff on the ground, and presence of droughty soils, pose a great potential for rapidly spreading wildfires.
- C. Regulations for Developments in Fire Prone Areas. The following regulations apply to developments proposed to be located in fire prone areas as determined by the Zoning Administrator:
 - 1. Conifer stands shall be thinned as to not be a solid stand and shall be pruned to a height of ten (10) feet above the ground in the area within twenty-five (25) feet around the perimeter and eaves of the roofs of buildings.
 - 2. Home construction materials shall conform to reflect fire danger of the area. Roofs and exteriors of buildings should be of fire resistant nature. Non-fire retardant treated shingles or siding, or materials which are not innately flame resistant should be avoided.
 - a. Underground power lines shall be encouraged.
 - b. Screening of chimney with non-flammable material with openings no larger than One-half (1/2) inch in size shall be required.

Hinckley Township Zoning Ordinance

Section 7 - OFF-STREET PARKING AND LOADING

Subd. 1 – Purpose

It is the purpose of this Section to provide for the regulation of and design standards for off-street parking facilities within the Town, to minimize congestion on the public right-of-ways, and to maximize the safety and general welfare of the public.

Subd.2 - Calculating Space

- A. Where calculations result in requiring a fractional space, and fraction less than one-half (1/2) shall be disregarded and any fraction of one-half (1/2) or more shall require one space.
- B. The term “floor area” for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the building structure or use times the number of floors, minus ten (10) percent.
- C. Should a building or structure contain two (2) or more types of uses, each should be calculated separately for determining the total off-street parking spaces required.
- D. The parking requirements for a use not specifically mentioned herein shall be the same as required for a use of similar nature as determined by the Planning Commission.

Subd. 3 - Site Plan

Except for single family dwellings, all applications for a zoning permit shall be accompanied by a site plan drawn to scale and dimensioned, indicating the location of all off-street parking and loading spaces in compliance with the requirements of this Section. Such plan shall be reviewed and approved by the Planning Commission/Town Board, in accordance with the criteria developed in Subd. 4. of this Section.

- A. Setbacks and statement of use.
- B. North point and scale
- C. All adjacent roads.
- D. Ownership of lot or parcel being developed
- E. Completely dimensioned parking layouts.
- F. All parking spaces clearly marked.
- G. The type and thickness of the surface material.
- H. All screening and landscaping.

Subd. 4 - Site Plan Criteria

Upon review and approval by the Planning Commission/Town Board, the plan for off-street parking shall meet the following site design standards:

Hinckley Township Zoning Ordinance

- A. All areas devoted to parking spaces and driveways shall be surfaced with materials suitable to control dust and drainage, etc. as determined by the Planning Commission/Town Board. All parking areas shall be designed to control surface runoff to adjacent properties either with curbing or grading techniques.
- B. Any lighting used to illuminate off-street parking areas shall be directed away from abutting property and public right-of-way.
- C. No sign shall be so located as to restrict the sight, orderly operation, and traffic movement within any parking area.
- D. Parking lots may be required to be screened and landscaped from abutting residential and institutional uses or districts by a wall, fence, or densely-planted, compact hedge or tree cover not less than five (5) feet nor more than eight (8) feet in heights.
- E. The parking area shall meet the minimum design standards, and number of stalls required within this Section.

Subd. 5 - Reduction and Use of Parking and Loading Space

Off-street parking and loading facilities provided to comply with the provisions of this Ordinance shall not subsequently be reduced below the requirements of this Ordinance. No change of use or occupancy of land, or of use or occupancy of any building shall be made until there is furnished sufficient parking and loading spaces as required by this Section. In such case, where construction enlarges bulk or floor area or other such measurable unit prescribed in this Ordinance, parking and loading facilities shall be provided for that measurable unit beyond the original type use of structure.

Subd. 6 - Maintenance

It shall be the responsibility of the lessee and/or owner of the principal use or building to maintain in a neat and adequate manner, the parking area, striping, landscaping and screening.

Subd. 7 - Stall, Aisle and Driveway Design

- A. Except in the case of single family and two-family dwellings, and townhouses, parking areas shall be designed so that circulation between parking aisles or driveways occurs within the designated parking lot and does not depend upon a public street or alley, and such design does not require backing into the public street.
- B. Except in the case of single family and two-family dwellings, and townhouses, parking areas shall comply with the following standards.

| Angle of Parking | Stall Width | Stall Depth | Minimum Driveway Width |
|-------------------------|-------------|-------------|------------------------|
| 0 degrees (Along Curb)* | 10' | 10' | 12' |
| 30 degrees | 10' | 19' | 11' |
| 45 degrees | 10' | 22' | 18' |
| 90 degrees | 10' | 19' | 24' |

*Parallel Parking – twenty-two (22) feet in length.

Hinckley Township Zoning Ordinance

- C. No driveway access shall be located less than forty (40) feet from the intersection of two (2) or more street right-of-ways for residential uses, and sixty (60) feet for business areas. This distance shall be measured from the intersection of lot lines.
- D. Access openings shall be a minimum of thirty (30) feet from the center of driveway to all sides, except road frontage, of property line. Common accesses serving more than one lot are exempt from this requirement.
- E. All property shall be entitled to at least one (1) access. Single family uses shall be limited to one (1) access per property.
- F. All parking spaces shall be served by access aisle or driveway connections to at public right-of-way.

Subd. 8 - Number of Required Parking and Loading Spaces

The following minimum number of off-street parking and loading spaces shall be provided and maintained.

| <u>Use</u> | <u>Number of Parking Spaces to be required</u> | <u>Off-street loading / unloading spaces required</u> |
|---|--|---|
| <u>Residential Uses</u> | | |
| Single Family | 2 spaces per dwelling | N/A |
| <u>Institutional Uses</u> | | |
| Auditorium, community centers, and religious facilities | 1 space for each permanent seats in the place of assembly plus 1 space for each 250 sq. ft of gross office area. | 1 for each structure over 100,000 sq. ft. of gross floor area. |
| <u>Commercial Uses</u> | | |
| Commercial Uses (except as below) | 5 spaces per 1,000 sq. ft. of retail or sales floor area. | 1 space for first 100,000 sq. Ft. of gross floor area and 1 space for each additional 50,000 sq. ft. of gross floor area. |
| Commercial use with Area devoted to storage, Warehouse, and/or Industry | 1 space per 200 sq. ft. devoted to sales or service plus 1 space per 500 sq. ft. of storage area. | Same as commercial use requirements for commercial purposes. Additional space for storage as required. |
| Drive-in Restaurants | 5 spaces for each 100 sq. ft. of storage area. | N/A |
| Furniture, automobile, marine, and appliance sales | 1 space for each 400 sq. ft. of floor area the first 25,000 Sq. ft. and 1 space for each 600 sq. ft. thereafter | 1 space plus 1 additional space for 25,000 sq. ft. of gross floor area. |

Hinckley Township Zoning Ordinance

| | | |
|--|--|---|
| Motel, Hotel | 1 space per dwelling unit | N/A |
| Office building, Professional offices, banks | 1 space for each 250 sq. ft. of gross floor area. | 1 space for buildings between 30,000 sq. ft. and 100,000 sq. ft. of gross floor area and 1 space for each additional 100,000 sq. ft. of gross floor area. |
| Restaurants and other food dispensing establishments except drive in restaurants | 1 space for each 4 seats plus one for each 2 employees | 1 space for each structure over 1,000 sq. ft. of gross floor area. |
| Industrial Uses, Manufacturing, Assembler, processing, Research, experimental, or testing stations | 1 space for each employee on the major shift or 1 space for each 400 sq. ft. whichever is greater. | 1 space for each employee structure over 10,000 sq. ft. of gross floor area and 2 spaces for each structure over 100,000 sq. ft. of gross floor area. |

Hinckley Township Zoning Ordinance

Section 8 - GENERAL PROVISIONS

Subd. 1 – Purpose

The purpose of this section is to establish general development and performance standards to assure compatible developments and land uses; to prevent blight and deterioration; and to enhance the health, safety and general welfare of the Township.

Subd. 2 - Drainage and Grading

The following requirements shall apply when any development activity has the potential for impacting the natural or artificial drainage systems of the area.

- A. Storm Water Run-off. No land shall be developed or altered that results in surface water run-off causing unreasonable flooding, erosion, or deposition of minerals on adjacent properties or water bodies. Such run-off shall be properly channeled into a storm drain, natural water course or drainage way, ponding area, or other public facility.
- B. Obstruction of Natural Drainage Prohibited. No zoning permit shall be issued for the construction of any building on which construction or necessary grading thereto shall obstruct any natural drainage waterway.
- C. Undrainable Lands. No zoning permit shall be issued for the construction of any building upon ground which cannot be properly drained.
- D. Protection of Existing Drainage Installations. Where application is made for a zoning permit and subsequent investigation shows that the property to be occupied by said building adjacent to a portion of a public road or street containing a drainage culvert, catch basin, sewer, special ditch, or any other artificial drainage structures used for the purpose of draining said property and/or neighboring property, the applicant shall specifically agree in writing to protect these waterways in such a way that they shall not be affected by the proposed building construction or grading work incidental thereto.
- E. Order to Regrade. The Township may order the applicant to regrade property if existing grade does not conform to any provision of this subdivision, if the grade indicated in the preliminary plan has not been followed, or if the grade poses a drainage problem to neighboring properties.
- F. Drainage Tile. The Township's Zoning Administrator may require drainage tile if, in their opinion, it is needed to avoid the accumulation of water or moisture in the building.

Subd. 3 - Waters, Waterways

As used in this section, the terms waters and/or waterways shall include all public waterways as defined by Minnesota Statutes, Section 105.38, and shall also include all bodies of water, natural or artificial, including ponds, streams, lakes, swamps, and ditches which are a part of or contribute to the collection, runoff, or storage waters within the Township or directly or indirectly affect the collection, transportation, storage, or disposal of the storm and surface waters system in the Township.

- A. Protected Water Alteration. Any alteration which will change or diminish the course, current or cross section of a public water shall be approved by the Commissioner of the Minnesota Department of Natural Resource, in accordance with the procedures of Minnesota Statute,

Hinckley Township Zoning Ordinance

Section 103G.241 and 103G. 245, as amended. This alteration includes that construction or any change to water courses; excavation of lake or stream bottoms for removal of muck, silt or weeds; and filling in the lakes or stream bed.

- B. Permit Required. No person shall cause or permit any waters or waterways to be created, dammed, altered, filled, dredged, ore eliminated, or cause the water level elevation thereof to be artificially altered without first securing a permit from the Township and the Department of Natural Resources

Subd. 4 - Fencing, Screening, and Landscaping

The placement of fences shall be subject to these requirements, except for agricultural fences.

- A. No fence shall exceed four (4) feet in the front yard or eight (8) feet in the side and rear yards in height as measured from the average point between the highest and lowest grade, except for security purposes associated with a business use or government facility, and for agricultural purposes.
- B. No fence, screen or structure which obstructs the view shall be located within twenty-five (25) feet of the corner formed by the intersection of street or railroad right-of-ways as measured from the intersecting property lines.
- C. Except as provided in this Section, Subd. 4.B, fences may upon mutual consent of the abutting public or private property.
- D. That side of the fence considered to be the face, opposite the side with the fence posts, shall face the abutting public or private property.
- E. All fences shall be constructed of or have the appearance of masonry, brick, wood, steel, or chain link. No barbed wire, electric fences, hog netting, poultry netting, or sheep netting are allowed except for agricultural purposes. No snow fencing or construction security fencing is allowed, except during construction.
- F. All screening required by the provisions of this Ordinance shall consist of:
 - 1. A green belt planting strip consisting of vegetative cover of sufficient width and density to provide an effect screen, or
 - 2. A fence constructed of masonry, brick, wood or steel which is compatible with surrounding structures and buildings.
 - 3. NI the case of a non-residential use abutting a residential use, the Town Board may require screening up to eight (8) feet in height.
- G. Any nonconforming fence which is destroyed or in disrepair, requiring more than seventy-five (75) percent of its replacement cost to repair, shall be removed and only be rebuilt if in compliance with the standards set forth in this section.

Hinckley Township Zoning Ordinance

Subd. 5 - Nuisances Prohibited

Anything which is injurious to health, or indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, is a nuisance and is hereby prohibited. An action may be brought by the Town Board or any person whose property is injuriously affected or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered, as provided for in Minnesota Statutes 561.01.

Subd. 6 - Blighting Factors Prohibited

It is hereby determined that the uses, structures and activities and causes of blight or blighting factors described in this Subdivision if allowed to exist, will tend to result in blighted and undesirable neighborhoods, so as to be harmful to the public welfare, health and safety. No person shall maintain or permit to be maintained, any of these causes of blight or blighting factors upon any property in the Township owned, leased, rented or occupied by such person.

A. Blighting Conditions. The following conditions are found to create blighting conditions and are hereby prohibited:

1. Storage of Junk Automobiles. The storage upon any property of junk automobiles, except for junk vehicles stored in an enclosed structure or not more than two (2) junk vehicles screened from view from adjacent property or the public right-of-way, shall be considered blight. For the purpose of this Subdivision, the term “junk automobiles” shall include any motor vehicle, part of a motor vehicle, stored in the open within fifteen (15) consecutive days in a thirty (30) day period, which is not currently licensed for use upon the highways of the State of Minnesota, or is either:
 - a. Unusable or inoperable because of lack of, or defects in component parts; or
 - b. unusable or inoperable because of damage from collision, deterioration, alteration or other factors; or,
 - c. beyond repair and, therefore, not intended for future use as a motor vehicle; or,
 - d. being retained on the property for possible use of salvageable parts.

A classic car or pioneer car, as defined in Minnesota Statutes, Section 168B.10 shall not be considered a “junk automobile” within the meaning of this Subdivision. Motor vehicles on the premises of a junk or salvage yard, which is licensed in accordance with Minnesota Statutes section 161.242 and is permitted under local laws and zoning regulations, shall not be considered “junk automobiles” within the meaning of this Subdivision.

2. Storage of Junk. The storage, accumulation, or salvaging of junk, trash, rubbish or refuse of any kind, except if stored in such a manner as to not create a nuisance or blighting condition for a period not to exceed thirty (30) days. The term “junk” shall include parts of machinery or motor vehicles; unused appliances stored in the open; unused mobile or manufactures homes; remnants of wood materials; decayed, weathered or broken construction materials no longer suitable for sale or use as whether or not the same could be put to any reasonable use.

Hinckley Township Zoning Ordinance

B. Enforcement of Blight Regulations. The following procedures shall be followed in the enforcement of the regulations set forth in Subd. 6 of this Section.

1. Notice of Violation. The owner of any property upon which any of the causes of blight or blighting factors set forth in Subd. 6 of this Section is found to exist, shall be notified in writing by the Zoning Administrator, Town Board or other agent of the Town Board to remove or eliminate such causes of blight or blighting factors from the property within fifteen (15) days after service of the notice upon the owner of the affected property. The notice may be served personally or by registered mail, return receipt requested, to the last known address of the owner. Additional time may be granted by the Town Board or its agent where bona fide efforts to remove or eliminate such causes of blight or blight factors are in progress.

Property owners not in compliance with Subd. 6, A upon the effective date of this Ordinance shall be in compliance within twelve (12) months from the date of effect of this Ordinance.

2. Failure to Comply. Failure of the owner to comply with such notice within the time allowed shall constitute a violation of this Ordinance.
3. Failure to Remove Blight. In the case of failure to remove any blight as defined herein, within the time prescribed, the Town Board may order the blight removed or the condition corrected with the cost to be charged back to the property owner. Where automobiles are involved, they shall be removed and disposed of in accordance with Minnesota Statutes Chapter 168B. All other goods seized by the Township shall be disposed of in conformity with applicable State law. The Town Board may certify the cost of the service to the County Auditor as an unpaid service charge which will then be collected together with the property tax as provided for in Minnesota Statutes 366.012. As an additional or alternative remedy, the owners of the land shall be liable for such costs, said costs shall be recoverable in any action brought against them in the name of the Township.

Subd. 7 – Lighting

Any lighting used to illuminate an off-street parking area, sign, yard or structure shall be arranged as to deflect light away from any adjoining residential properties or uses from the public streets. Direct or reflected light shall not be directed into any adjoining property. The source of light shall be hooded or controlled in some manner so as not unreasonably light adjacent property. Bare incandescent light bulbs shall not be permitted in full view from adjacent property of public right-of-way.

Subd. 8 - Vision Clearance at Corners, Curb Cuts and Railroad Crossings

Notwithstanding any part of this Ordinance or any permit or variance granted, no building, or any obstacle, or any portion thereof shall be placed or retained in such manner to constitute a traffic hazard or obstruct the vision clearance of corners, curb cuts, or railroad crossing.

Hinckley Township Zoning Ordinance

Subd. 9 - Storage and Disposal of Equipment, Items, Materials, and Waste

The following standards shall apply to storing, handling and disposal of any items, materials or wastes:

- A. No construction equipment and/or material for the purposes of construction of the site shall be stored on the site without a valid zoning permit. When construction is complete, all construction equipment and materials must be removed within thirty (30) days.
- B. No use shall be so operated that the storage and or disposal of materials or wastes results in any discharges of matter across the boundaries of the lot wherein such use is located or into the air, water or soil as to endanger the public health, safety, comfort, or welfare, or cause injury or damage to property or business
- C. The pollution of any well, stream, lake, or body of water by sewage, industrial waste, or other substances is prohibited.
- D. All carcasses of animals shall be properly disposed of, including burning, composting, within forty-eight (48) hours after death.
- E. The ownership, possession or control of any unused appliances or other containers with doors which fasten automatically when closed and of sufficient size to retain any person, that are exposed and accessible to the public without removal of the doors, lids, hinges or latches or the locking thereof to prevent access by the public, is prohibited.
- F. All structures, landscaping and fencing shall be reasonably maintained so as to not constitute a blighting condition or be a threat to the public health and safety or cause depreciation of the value of adjacent property.

Subd. 10 - Performance Standards

All users shall comply with all federal, state, and local pollution and nuisance laws and regulations, including but not limited to glare, smoke, dust, odors, and noise. The burden of proof for compliance with appropriate performance standards shall lie with the applicant.

Subd. 11- Administrative Standards

Whenever in the course of administration and enforcement of this Ordinance, it is necessary or desirable to make any administrative decision, then, unless other standards are provided within this Ordinance, the decisions shall be made so that the result will be consistent with the intent and purpose of this Ordinance as described in Section 1, Subd. 2 of this Ordinance.

Hinckley Township Zoning Ordinance

Section 9 - SIGN REGULATIONS

Subd. 1 – Purpose

The purpose of this Section is to regulate the location, size and types of signs to enable the public to locate goods, services and facilities; to prevent competition for attention; to prevent hazards to life and property; and to protect the natural roadside aesthetics.

Subd. 2 - Permits Required

Except as otherwise provided in this Ordinance, no sign shall be erected, constructed, altered, rebuilt, or relocated until a sign permit has been issued. No sign shall be erected along a state trunk highway without obtaining a permit from the Minnesota Department of Transportation.

- A. Exceptions. No permit will be required under this Ordinance for the following signs:
1. Address and identification signs not exceeding three (3) square feet in area.
 2. Real estate sale signs which do not exceed ten (10) square feet in area.
 3. Political signs
 4. Public signs
 5. Temporary construction signs not exceeding thirty-two (32) square feet in area.
 6. Temporary signs as provided for in Subd. 4, K of this Section

Subd. 3 - Prohibited Signs

No sign shall be erected or maintained:

- A. Which purports to be resembles an official traffic control device, sign, or signal, or railroad sign or signal; or which hides from view or interferes in any material degree with the effectiveness of any traffic control device, sign, or signal, or railroad sign or signal, or which obstructs or interferes with the driver's view of approaching, merging, or intersecting traffic for a distance not to exceed five hundred (500) feet.
- B. Which prominently displays the word "stop" or "danger".
- C. Which contains statements, words, or pictures of an obscene, indecent, or immoral character of such as would offend public morals or decency.
- D. On any right-of-way of any highway, except as otherwise provided by law or allowed by the Commissioner of the Minnesota Department of Transportation.
- E. If any part of such sign extends more than six (6) feet into the public right-of-way, or is less than eight (8) feet on ground level. Canopies and marquees shall be considered an integral part of the structure to which they are attached. This Section does not apply to signs posted by duly constituted public authorities in the performance of their public duties.

Hinckley Township Zoning Ordinance

- F. On private land without the written consent of the owner thereof.
- G. On trees, shrubs, or which are painted or drawn upon rocks or natural features, or on any public utility poles.
- H. Which has distracting flashing or moving lights resembling an emergency vehicle or so designed as to be a traffic hazard.
- I. Which are structurally unsafe, in disrepair, or are abandoned.

Subd. 4 - General Provisions

The following requirements shall apply to all signs in all districts.

- A. **Signs painted on buildings.** Signs painted on a building shall be governed by the square footage limitations specified in the appropriate zoning districts. These shall be kept in good condition and shall be repainted, removed or painted out when they are not so maintained.
- B. **Sign obstructing.** Signs shall not obstruct any window, door, fire escape, stairway or opening intended to provide light, air, ingress or egress for any building or structure.
- C. **Ground Sign Maintenance.** The owner, lessee or manager of any ground sign and the owner of the land on which the same is located shall keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the lot on which a sign is located.
- D. **Signs in Disrepair.** Signs which may be or may be hereafter become rotted, unsafe or unsightly shall be repaired or removed by the owner or lessee of the property upon which the sign stands upon notice by the Zoning Administrator.
- E. **Political Signs.** Political signs not exceeding thirty-two (32) square feet in area are allowed in any district, on private property, with the consent of the owner of the property. Such signs must be removed within seven (7) days following the date of the election or elections to which they apply.
- F. **Displays.** In any district, animal displays, lights directed skyward, pieces of sculpture, fountains or other displays or features which do not clearly fall within the definition of a sign, but which direct attention to an object, product, activity, person, institution, organization or business, shall require a sign permit. Mobile signs on wheels or otherwise capable of being moved from place to place shall conform to the provisions of this Ordinance just as permanently affixed signs.
- G. **Illuminated Signs.** The light from any illuminated sign shall be so shaded, shielded or directed that the light intensity or brightness shall not adversely affect surrounding or facing premises, nor adversely affect the safe vision of operators of vehicles moving on the public or private roads, highways or parking areas. Light shall not shine or reflect on or into residential structures. The source of light shall not be visible from the public right of way or residence.
- H. **Real Estate Sales Signs.** Real estate sales signs may be placed in any yard providing such signs are within the property line.

Hinckley Township Zoning Ordinance

- I. **Real Estate Development Project Sales Signs.** Real estate development project sales signs may be erected for the purpose of selling or promoting a real estate development project.
 - 1. Such signs shall not exceed one hundred (100) square feet in area.
 - 2. Only one (1) such sign shall be erected on each road frontage.
 - 3. Such signs shall be removed when the project is eighty (80) percent completed, sold or leased.
 - 4. Such signs shall not be located closer than one hundred (100) feet to any existing residence.
- J. **Construction Signs.** Construction signs shall not be erected before issuance of a zoning permit or remain after issuance of certificate of occupancy.
- K. **Temporary Signs.** Banners, pennants, and temporary signs may be used for grand openings, special events and holidays, but must be removed within seven (7) days after said event.
- L. **Inside Signs.** The regulations contained herein do not apply to signs painted, attached by adhesive or otherwise attached directly to or visible through windows and glass portions of doors.
- M. **Multi-faced signs.** Multi-faced signs shall not exceed two (2) times the allowed square footage of single-faced signs.
- N. **Location Restrictions.** Except for more restrictive subsections of this Section, no sign that exceeds one (100) square feet in area shall be erected or maintained:
 - 1. Which would prevent any traveler on any street from obtaining a clear view of approaching vehicles on the same street for a distance of five hundred (500) feet.
 - 2. Which would be closer than five hundred (500) feet to a national, state or local park, historic site, picnic or rest area, church or school
 - 3. Which would be closer than two hundred fifty (250) feet to residential structures.
 - 4. Which would partly or totally obstruct the view of a lake, river, rocks, wooded area, stream or other point of natural and scenic beauty.

Subd. 5 - Permitted Signs

The following signs are permitted:

- A. **Types of Signs.** Nameplate, real estate sales and development, public or governmental, political, identification, informational, institutional, business, directional, construction, temporary and agricultural crop demonstration signs.
- B. **Number of Signs.** One (1) of each type of sign is allowed per lot frontage, except political signs where one (1) per each candidate is permitted, one for each agricultural crop demonstration plot is permitted, or as hereinafter allowed.

Hinckley Township Zoning Ordinance

C. Sign Size Requirements.

1. Nameplate signs shall not exceed ten (10) square feet in area.
2. Construction signs (temporary) not exceeding thirty-two (32) square feet in area.
3. Real estate signs not exceeding sixteen (16) square feet and real estate development project signs not to exceed one hundred (100) square feet.

D. Number, Height of Signs. Business signs, institutional signs, and governmental signs located on premises, for allowed conditional uses or allowed uses, subject to the following provisions.

1. No more than one (1) freestanding sign of not more than sixty-four (64) square feet in surface area and no more than ten (10) feet in height above the average grade.
2. No more than one (1) flat wall sign, which shall not exceed sixty-four (64) square feet in surface area.

Subd. 6 - Off-Premise Business Directional Signs

Off-premise business directional signs are permitted as regulated as follows:

- A. **Off-Premise Business Directional Signs.** Business directional signs located off-premise shall be permitted. Off-premise directional business signs shall not exceed 1 sign at sixteen (16) square feet in area.
- B. **Sign Height.** Off-premise business directional signs shall not exceed twenty (20) feet in height above the average grade.

Subd. 7 - Design, Construction and Maintenance

Any sign existing upon the effectuation date of this Ordinance and hereafter which no longer advertises or identifies a bona fide business conducted, or a service rendered or a product sold, shall be removed by the owner, agent, or other person having the beneficial use of the property upon which the sign is located. All signs, together with their supports, braces, guys, and anchors, shall be kept in repair and in proper state of preservation. The display surfaces of all signs shall be kept neatly painted or posted at all times. All signs shall be maintained so as not to be unsightly or create where the sign has deteriorated to the point that one-fourth (1/4) or more of the surface of the name, identification, description or other symbol is no longer clearly recognizable to the human eye at a distance of one hundred (100) feet.

The Town Board may order the removal of any sign that is not properly maintained. The Town Board may certify the cost of the removal service to the County Auditor as an unpaid service charge which will then be collected together with the property taxes as provided for in Minnesota Statutes 366.012. As an additional or alternative remedy, the owners of the land shall be liable for such costs, said costs shall be recoverable in any action brought against them in the name of the Township.

Subd. 8 - Nonconforming Signs

Nonconforming permanent signs lawfully existing at the time of adoption of this Ordinance shall be allowed to continue in use, but shall not be rebuilt, relocated or altered without being brought into compliance with the requirements of this Section. After a non-conforming sign has been removed, it shall not be replaced by another non-conforming sign.

Hinckley Township Zoning Ordinance

Section 10 - HOME OCCUPATIONS

Subd. 1 – Purpose

It is the purpose of this Section to provide for the use of the home as a place for the operation of a business or profession provided the occupation is clearly secondary to the principal use of the home as a residence, does not change the area, and does not place an undue burden on public services and roads.

Subd. 2 – Permitted Home Occupations

Home occupations which do not require additional employees or parking, an accessory building, or generate a noticeable increase in traffic, does not have the potential to impact adjacent properties, or does not have the potential of exceeding existing services or facilities, shall be permitted as an accessory use.

Subd. 3 - Conditional Use Permit Required

Home occupations which have the potential for generating a noticeable increase in traffic, requires additional parking, employs persons not residing in the home, or requires the use of an accessory building, has the potential to impact adjacent properties, or has the potential of exceeding existing services or facilities, shall require a Conditional use Permit.

Subd. 4 - Performance Standards

All home occupations shall conform to the following standards;

- A. Conduct of the home occupation does not require alterations to the exterior of the residence which substantially alters the appearance of the dwelling as a residence.
- B. Only those persons residing in the home and not more than two (2) other full time employees and six (6) part time employees as allowed by a Conditional Use Permit may be employed within the home.
- C. Signage consists of no more than one (1) single or double-faced sign with a maximum area of sixteen (16) square feet per side, not to exceed ten (10) feet in height.
- D. The home occupation shall not generate wastes of a nature of type that cannot be treated by a standard on-site sewage system or municipal sewer system, or hazardous wastes without an approval plan for offsite disposal.
- E. All home occupations shall comply with the performance standards set forth in Section 5, Subd. 10

Subd. 5 - Review by Planning Commission

When deemed appropriate, the Zoning Administrator may bring a proposal or existing home occupation to the attention on the Planning Commission at which time the Planning Commission may permit the use or hold such public hearing, request such information, or require such conditions as deemed necessary to ensure compliance with the performance criteria of this Section.

Section 11 - COMMERCIAL MINING, GRADING, LAND RECLAMATION

Subd. 1 - Commercial Mining

The extraction of sand, gravel, or other material from the land in the total amount of one thousand (1,000) cubic yards or more for sale and removal thereof from the site shall be defined as commercial mining. The conduct of commercial mining shall be permitted only upon issuance of a Conditional Use Permit or Interim Use Permit.

Commercial mining operations in existence prior to the enactment of this Ordinance, shall apply for a conditional use permit and be subject to the provisions of this Ordinance at any time that the existing mining operation is moved to a new land parcel. The following requirement shall apply to commercial mining operations.

- A. In addition to the requirements for conditional uses in Section 17, the following information shall accompany the conditional use permit application in writing with necessary maps.
 1. Site Plan
 - a. area of site
 - b. Proximity of site to lot lines, adjacent structures
 - c. Existing drainage and permanent or temporary ponding areas
 2. Operational Plan
 - a. Placement of structures and equipment
 - b. Location and amount of materials to be removed
 - c. Location and height of materials to be stock piled
 - d. Altered drainage and ponding areas
 - e. Erosion and sediment controls to be used
 - f. Dust, noise, and smoke control
 - g. Duration of mining operation
 - h. Hours of operation
 - i. Materials to be produced
 - j. Other activities occurring related to mining activity
 3. Reclamation Plan
 - a. Final grade of site
 - b. Vegetative Cover
 - c. End use of site
 4. Other information as may be requested by the Planning Commission or Town Board.
- B. The Township may require updated operational plans on an annual basis. The approval of the annual operational plan shall be a condition of the use permit.
- C. Any use beyond the extraction and stockpiling of materials such as crushing, washing, or processing of materials; the production of architectural or structural stone; or the manufacture of asphalt, concrete or concrete building blocks; or any activity other than what is described in the conditional permit shall be considered as separate use and shall require an amendment of issuance of a conditional use permit.

Hinckley Township Zoning Ordinance

- D. The Town Board may place conditions upon the issuance of the permit in addition to those described in Section 17. These conditions may include, but are not limited to:
1. Maintenance standards of site (including weed control, storage and parking of vehicles and equipment).
 2. Drainage and sediment control
 3. Fencing and screening.
 4. Location and maintenance of access roads and hauling routes.
 5. Dust, noise, and smoke control.
 6. Setbacks from property lines
 7. Hours of operation.
 8. Rehabilitation of land and vegetation.
 9. Posting of performance bond to reimburse the Township for any costs which may be incurred for the following.
 - a. Costs of bringing the operation into compliance with the conditional use permit requirements.
 - b. Costs of reclamation should be permitted fail to execute any part of a reclamation plan as required within this Ordinance or as a condition of the permit.
 - c. Extraordinary costs of repairing roads due to the special burden resulting from the hauling of materials and traffic associated with the operation. The amount of such cost shall be determined by the Town Board.

Subd. 2 - Grading and Land Reclamation

Under this Ordinance grading and land reclamation is the removal or deposition of materials so as to alter the grade. All grading and land reclamation shall be controlled under the provisions of the Zoning Ordinance and shall meet the following minimum standards:

- A. The smallest amount of bare ground is exposed for as short a time as feasible.
- B. Temporary ground cover is used until permanent ground cover, such as sod, is planted.
- C. Methods to prevent erosion and trap sediment are employed.
- D. Fill is stabilized to accepted engineering standards.
- E. Final slopes for cut slopes should be maximum of 1:1, or 100%; fill slopes 3:1, or 30%, and grade or construction slope 5:1, or 20%.

Section 12 - WIRELESS COMMUNICATION FACILITIES

Subd. 1 – Purpose

In order to accommodate the communication needs of residents and business while protecting the public health, safety, and general welfare of the community, these regulations are necessary in order to:

- A. Facilitate the provision of wireless communication services to the residents and businesses of the Township.
- B. Minimize adverse visual impacts of wireless communication facilities (WCFs) through careful design, siting, landscape screening, and innovative camouflaging techniques;
- C. Encourage WCFs to be located, to the extent possible, in areas where the adverse impact on the community is minimal.
- D. Avoid potential damage to adjacent properties from the construction, operation and potential failure of WCFs through structural standards and setback requirements; and
- E. Maximize the use of existing and approved towers, buildings, or structures to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve community.

Subd. 2 – Applicability

This Section shall not apply to the use or location of private, residential citizen band radio towers, amateur radio towers or television antennas.

Subd. 3 - Allowed as Conditional Use in the B-A-R Districts

It shall be unlawful for any person, firm, or corporation to erect, construct in place, place or re-erect, or replace any WCF without first making application and securing a conditional use permit.

Subd. 4 - Activities Not Requiring Zoning Permit

Zoning Permits are not required for:

- A. Routine maintenance of towers and related structures shall not require the issuance of a conditional use permit.
- B. Adjustment or replacement of the elements of an antenna array affixed to a tower, building or other structure, provided that replacement does not reduce the safety factor.
- C. WCFs erected temporarily for test purposes, for emergency communication, or for broadcast remote pick-up operations. Temporary antennas shall be removed within 72 hours following installation except in the case of an emergency situation where the Town Board may permit the use of temporary equipment for up to thirty (30) days.

Hinckley Township Zoning Ordinance

Subd. 5 - Additional Submittal Requirements

In addition to the information required elsewhere in this Ordinance, prior to the issuance of a zoning or zoning permit, an application for a WCF shall include the following supplemental information.

- A. A site plan showing property boundaries, location of proposed equipment, fencing, screening, and landscaping.
- B. An engineer's, architect's, or computer generated drawing of the proposed WCD, including elevations, landscaping, screening, camouflaging and screening in order to determine the visual impact of the facility.
- C. A report from a qualified and registered engineer that:
 - 1. describes the tower and antenna height and design including a cross section elevation;
 - 2. documents the approximate height above grade for potential mounting positions for co-located antennas and the approximate minimum separation distances between antennas;
 - 3. describes the tower's capacity with structural and electrical plans showing how the proposed tower will accommodate the co-location of the applicant's antenna and antennas of additional users, and the plans and specifications whereby the proposed tower is designed to allow for future rearrangement of antennas to accommodate additional users and the mounting of additional antennas at varying heights;
 - 4. describes the lighting to be placed on the tower if required by the FCC or FAA;
 - 5. certifies that the facilities will not cause destructive interference with previously established public safety communications systems; and
 - 6. certifies the facility's compliance with structural and electrical standards.
- D. A description of the type of consumer services each provider will provide to its customers (cellular, PCS, SMR, ESMR, paging or other anticipated wireless communications services).
- E. A map showing the geographic service area of the existing and proposed WCFs.
- F. A letter of intent committing the tower owners and their successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use, including without limitation, reasonable rental rates for such shared use.
- G. In the case of mounting antennas on an existing tower or structure, a letter of intent committing the owners and his or her successors of the tower or structure to allow antennas to be mounted.
- H. A landscape plan showing specific landscape material.
- I. Method of fencing tower and accessory structures, finished tower color and if applicable, the method of camouflage and illumination.
- J. Plans shall include an engineer's stamp and registration number.

Hinckley Township Zoning Ordinance

- K. Written acknowledgment by the landowner of a leased site that they will abide and be responsible for all applicable terms of the permit, including all structure removal and site restoration requirements of this section of this Ordinance.
- L. Written proof of liability insurance which protects against losses due to personal injury or property damage resulting from the construction, operation or collapse of the WCF.
- M. Additional information as may be requested by the Township including the use of an independent technical resource to review application information or to provide technical information not provided by the applicant, costs of such reviews or provisions of technical information shall be paid for by the applicant.

Subd. 6 - Co-Location Requirements

A proposal for a new commercial wireless telecommunication service tower shall not be approved unless it can reasonably be documented by the applicant that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower, other structure or building due to one or more of the following reasons:

- A. The planned equipment would exceed the structural capacity of the existing or approved tower, other structure, or building, as documented by a qualified engineer;
- B. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified engineer;
- D. Existing or approved towers, buildings, or other structures within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified engineer;
- E. Other reasons affecting technical performance, system coverage, and system capacity that make it impractical to place or locate the planned telecommunications equipment upon an existing or approved tower, other structure or building, as documented by a qualified engineer.

Subd. 7 - WCF Design and Construction Requirements

Proposed construction or modification of WCFs shall meet the following design requirements.

- A. Any proposed wireless telecommunication tower shall be designed structurally, electrically, and in all respects, to accommodate the applicant's antennas and antennas for at least one additional user if the tower is over fifty (50) feet in heights. Towers must be designed to allow for future rearrangement of antennas upon the towers and to accept antennas mounted at varying heights.
- B. Wireless telecommunication towers shall not exceed one hundred ninety-nine (199) feet in heights.
- C. WCFs shall be designed to blend into the surrounding environment to the maximum extent feasible through the use of camouflaging techniques and color, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

Hinckley Township Zoning Ordinance

- D. WCFs shall be located on a parcel of land so as to have the least impact on adjoining properties and any negative impacts of the facility shall be confined as much as possible to the property on which it is located.
- E. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be located to the extent possible and be of a color that is identical to or closely compatible with the color of the structure so as to make the antenna and related equipment as visually unobtrusive as possible. Roof-mounted antennas shall not be permitted on pitched-roofs, unless they are incorporated into architectural elements such as steeples, spires, bell towers, and chimneys. Antennas mounted on sides of buildings shall be attached flush with the side of the building, and shall not protrude more than three (3) feet from the side of the building.
- F. Wireless communication service towers shall be of a monopole design unless determined by the Township that an alternative design would be necessary to support future potential users.
- G. WCFs shall, to the extent possible, be architecturally designed to blend in with the surrounding environment, and use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
- H. All accessory utility buildings and structures shall meet such setback requirements as are compatible with the actual placement of the tower.
- I. Accessory utility buildings and structures shall not be more than two hundred (200) square feet in size.
- J. Towers and antennas WCFs shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
- K. Tower designs shall be certified by a qualified engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code and the Electronic Industry Association.
- L. No WCF shall have constructed thereon, or attached thereon, any platform, walkway, or like structure for the purpose of human support, except during periods of construction and repair.
- M. All WCFs shall be constructed of or treated with corrosive resistant material.
- N. No part of any antenna or tower nor any lines, cable, equipment or wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line.
- O. Every tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons by erection of a security fence at least six (6) feet in height and by design that the bottom of the tower (within twelve (12) feet of the ground) precludes unauthorized climbing.
- P. Any other applicable provision of this Ordinance.

Subd. 8 – Landscaping

Hinckley Township Zoning Ordinance

The following requirements shall govern the landscaping surrounding WCFs for which a conditional use permit is required;

- A. WCFs shall be landscaped with a buffer of plant materials that effectively screen the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide and eight (8) feet high outside the perimeter of the compound, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
- B. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
- C. These landscaping requirements may be waived or modified by the Planning Commission and Town Board in cases when the WCF is affixed a building or other structure or is sufficiently camouflaged as to be visually inconspicuous without the application of these landscaping requirements.

Subd. 9 - WCF Setbacks

WCFs shall conform to each of the following minimum setback requirements.

- A. WCFs shall meet the setbacks of the underlying zoning district or the special setback requirements set forth in this subdivision, whichever is the greater.
- B. The WCF shall not encroach upon any easements. The minimum distance to the property line shall be equal to the height of the WCF, plus ten (10) feet. The minimum distance to the nearest residential structure shall be two times the height of the WCF.
- C. The setback shall be measured between the base of the WCF and the property line.
- D. The setback of a WCF may be reduced or its location in relation to a public street varied, at the discretion of the Board of Adjustments and Appeals, to allow the integration of a WCF into an existing or proposed structure such as a church steeple, light standard, power line support device, or similar structure.

Subd. 10 – Lighting

No lights, reflectors, flashers, or strobes shall be affixed or attached in any way to WCFs unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority, or if allowed or required by the Township for security or safety reasons. This provision shall not preclude the placement of an antenna on an existing or proposed lighting standard.

Subd. 11 - Signs and Advertising

The use of any portion of a WCF for signs or advertising message, other than warning or equipment information signs, is prohibited.

Subd. 12 - Antennas Mounted on Roofs, Walls, and Existing Towers

Hinckley Township Zoning Ordinance

The placement of wireless telecommunication antennas on roofs, walls, and existing towers shall be allowed based upon the submittal and approval of:

- A. Applicable plans as specified in Subd. 5 of this Section.
- B. A report prepared by a qualified professional engineer indicating the existing building, structure or tower suitability to accept the antenna and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated.

Subd. 13 - Existing Light Poles

The replacement of an existing light pole or lighting standards in order to accommodate the placement of an antenna thereupon shall be approved by the Township.

Subd. 14 - Interference with Telecommunications

No new or existing telecommunications service shall interfere with public safety telecommunications, or private telecommunications, including without limitation, radio, television, and personal communications, in accordance with rules and regulations of the Federal Communications Commission.

Subd. 15 – Inspection

The Township may, at any time, inspect any WCF to ensure its structural integrity. If upon inspection, it is determined that the facility fails to comply with applicable codes and such failure constitutes a danger to persons or property, notice shall be provided to the owner of the facility requiring that the facility be brought into compliance within thirty (30) days. Failure to bring the facility into compliance within this period shall constitute cause for the Township to remove the facility at the owner's expense.

Subd. 16 - Lawful Existing Antennas and Towers

Antennas and towers in lawful existence as of the date of effect of this Ordinance that do not conform to or comply with this Section are subject to the following provisions:

- A. Towers may continue in use for the purpose now used and as now existing but may not be replaced or materially altered without complying in all respects with this Section.
- B. If such towers are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location, and physical dimensions upon obtaining a zoning permit therefore, but without otherwise complying with this Section, provided, however, that if the cost of repairing the tower to the former use, physical dimensions, and location would exceed the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this section.

Hinckley Township Zoning Ordinance

Subd. 17 - Abandoned or unused Towers or Portions of Towers

All abandoned or unused WCFs shall be removed within six (6) months of the cessation of operations unless a time extension is approved by the Township. After the WCF is removed, the site shall be restored to its original or an improved condition, and anchoring elements shall be removed from the ground to within eight (8) feet of ground level. In the event that a WCF is not removed or the site restoration not completed within twelve (12) months of the cessation of operations at a site, the facilities may be removed by the Township. The Town Board may certify the cost of the removal service to the County Auditor as an unpaid service charge which will then be collected together with the property taxes as provided for in Minnesota Statutes. As an additional or alternative remedy, the owners of the land shall be liable for such costs, said costs shall be recoverable in any action brought against them in the name of the Township. The Township may also require a bond, letter of credit, cash escrow or other form of security acceptable to the Township in the amount sufficient to remove the tower and restore the site.

Hinckley Township Zoning Ordinance

Section 13 - NONCONFORMING BUILDINGS, STRUCTURES AND USES

Subd. 1 – Purpose

It is the purpose of this Section to provide for the regulation of nonconforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which nonconforming buildings, structures, and uses will be operated and maintained. The Zoning Ordinance establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this Section that all nonconforming uses shall be eventually brought into conformity.

Subd. 2

Any structure or use lawfully existing upon the effective date of this Ordinance shall not be enlarged, but may be continued at the size and in the manner of operation existing upon such date except as hereinafter specified or, subsequently amended.

Subd. 3

Nothing in this Ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Zoning Administrator provided the necessary repairs shall not constitute more than fifty (50) percent of fair market value of such structure. Said value shall be determined by the County Assessor.

Subd. 4

No nonconforming building, structure or use shall be moved to another lot or to any other part of the parcel or lot upon which the same was constructed or was conducted at the time of this Ordinance adoption, unless such movement shall bring the nonconformance into compliance with the requirements of this Ordinance.

Subd. 5

When any lawful nonconforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.

Subd. 6

A lawful nonconforming use of a structure or use of land may be changed to lessen the nonconformity of use. Once a nonconforming structure or use of land has been changed, it shall not thereafter be so changed to increase the nonconformity.

Subd. 7

If at any time a nonconforming building, structure or use shall be destroyed by natural causes to the extent of more than seventy-five (75) percent of its fair market value, said value to be determined by the County Assessor, then without further action by the Board, the building and the land on which such building was located or maintained shall, from and after the date of said destruction, be subject to all the regulations specified by these zoning regulations for the district in which such land and buildings are located. Any building which is damaged by natural causes to an extent of less than seventy-five

Hinckley Township Zoning Ordinance

(75) percent of its value may be restored to its former extent. Estimate of the extent of damage or destruction shall be determined by the Zoning Administrator.

Subd. 8

Whenever a lawful nonconforming use of a structure or land is discontinued for a period of twelve (12) months, any future use of said structure or land shall be made to conform to the provisions of this Ordinance.

Subd. 9

Normal maintenance of a building or other lawful nonconforming use is permitted, including necessary non-structural repairs and incidental alterations which do not physically extend or intensify the nonconforming use.

Subd. 10

Alterations may be made to a building or other lawful nonconforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units or size or volume of the building.

Subd. 11

Any proposed structure which will, under this Ordinance, become nonconforming but for which a zoning permit has been lawfully granted prior to the effective date of this Ordinance, may be completed in accordance with the approved plans; provided construction is started within sixty (60) days of the effective date of this Ordinance. Such structure and use shall thereafter be a legally nonconforming structure and use.

Subd. 12

No zoning permit is required for solar panels, wind turbines, or any other future energy sources for residential use only. Setback regulations will apply. Any such energy source for commercial use will require a permit.

Hinckley Township Zoning Ordinance

Section 14 - ADMINISTRATION AND ENFORCEMENT

Subd. 1 - Administrating Officer

This Ordinance shall be administered and enforced by the Zoning Administrator who shall be appointed by the Town Board.

Subd. 2 - Duties of the Zoning Administrator

The Zoning Administrator shall enforce the provisions of this Ordinance and shall perform the following duties.

- A. Determine that all zoning permit applications comply with the terms of this Ordinance.
- B. Issue zoning permits after determination of above.
- C. Maintain permanent and current records of this Ordinance, including but not limited to, all maps, amendments, conditional uses, variances, appeals and applications thereof.
- D. Receive, file and forward all applications for appeal, variances, conditional uses, interim uses, amendments and other matters to the designated official bodies.
- E. Institute in the name of the Town, any appropriate actions or proceedings against a violator as provided by law.

Subd. 3 - Zoning Permit Required.

- A. Scope. From and after the effective date of this Ordinance, it shall be unlawful to proceed with any of the following without first applying for and obtaining a zoning permit.
 1. New construction or placement of any structure with a fixed ground location, before ground breaking requires a permit.
 2. Alteration, repair, or enlargement of any building or structure with a fixed ground location which changes the exterior dimensions, or any relocation of an existing building or structure with a fixed ground location.
 3. Change of use of structures or land. Concrete slabs within setbacks without structures does not need permit. Slab with structure needs permit.
- B. Application. Requests for a zoning permit shall be filed with the Zoning Administrator on an official application form. Each application for a permit shall be accompanied by a site plan drawn to scale showing the dimensions of the lot, size and location of all principal and accessory buildings and parking areas, and such additional information deemed necessary for the proper review and enforcement of this Ordinance and any other applicable development codes. The fee for a zoning permit shall be based upon a fee schedule, hereby made part of this Ordinance.
- C. Survey Required. The Zoning Administrator may require a survey as part of the application when the property is undeveloped or when the location of property lines are in question.

Hinckley Township Zoning Ordinance

- D. Issuance of Permit. The Zoning Administrator shall approve the issuance of the zoning permit for conformance with zoning requirements only when the plans comply with this Ordinance and other applicable Township Ordinances. If all requirements are met, the zoning permit will be issued by the Zoning Administrator.

In certain cases the application may be referred to the Planning Commission, in accordance with the operating policies of the Township.

Subd. 4 - Fees

- A. To defray administrative costs of processing of requests for conditional uses, interim uses, amendments, variances and appeals, a base fee per application shall be paid by all applicants, in accordance with the zoning permit fee schedule as established and adopted by the Town Board.
- B. In order to defray the additional cost of processing applications, (amendment, conditional use, interim use, variance, appeal) for developments, all applicants shall pay the total cost of staff and/or consulting time spent exclusively in producing materials for the applicant's request, and all materials for said request.
1. "Materials" shall include, but not be limited to, maps, graphs, charts, drawings, etc., and all printing or reproduction of same.
 2. "Staff and/or Consulting Time" shall include any time spent in either researching for or actual production of materials.
 3. The hourly rate for "staff and/or consulting time" shall be established and made available to the applicant by the Zoning Administrator prior to production of any materials and the applicant shall be given a reasonable estimate of project time and/or materials costs.
- C. Fees shall be payable at the time applications are filed with the Zoning Administrator and are not refundable unless application is withdrawn prior to referral to the Planning Commission. A deposit to cover staff or consulting time and special materials will be established and required by the Zoning Administrator at the time the base fee is paid.

Section 15 - BOARD OF APPEALS AND ADJUSTMENTS

Subd. 1 - Creation and Membership

A Board of Appeals and Adjustments is hereby established and vested with such authority as is hereinafter provided and as provided by Minnesota Statutes. The Board shall consist of all members of the Town Board. The Zoning Administrator may act as Secretary of the Board.

The Board of Appeals and Adjustments shall elect a Chairman and Vice Chairman from among its members. It shall adopt rules for the transaction of its business and shall keep a public record of its transactions, findings and determinations.

Subd. 2 – Powers

The Board of Appeals and Adjustments shall have the power to grant a variance adjustment to any of the provisions of this Ordinance to the extent of the following and no further.

- A. To vary or modify the strict application of any of the regulations or provisions contained in this Ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration. No variance or modification of the uses provided for within a district shall be allowed, except as otherwise provided in this Ordinance.
- B. To interpret zoning boundaries on official zoning maps.
- C. To permit the extension of a zoning district where the boundary line thereof divides a lot in one ownership at a time of the passage of this Ordinance, but such extension of any district shall not exceed one hundred (100) feet.

The Board of Appeals and Adjustments shall act upon all questions as they may arise in the administration of any Ordinance of official control, and it shall hear and decide appeals from and review any order, requirements, decision or determination made by an administrative official charged with enforcing any provisions contained herein.

Subd. 3 - Appeals

Any aggrieved persons, firm or corporation objecting to the ruling of any administrative official on the administering of the provisions of this Ordinance shall have the right to appeal to the Board of Appeals and Adjustments.

Hinckley Township Zoning Ordinance

Section 16 - CONDITIONAL USES

Subd. 1 - Procedure

- A. Requests for conditional use permits, as provided within this Ordinance, shall be filed with the Zoning Administrator or an official application form. Such application shall also be accompanied by the application fee and complimentary copies of detailed written and graphic materials fully explaining the proposed development or use. The Zoning Administrator shall present said application, along with all related information, to the Planning Commission at its next regular meeting. After determining that the application has been properly filed and is complete, the Planning Commission shall schedule a public hearing to consider the request at the next earliest meeting following proper notification periods.
- B. The application shall be accompanied by a site plan of the proposed use showing such information as may be necessary or desirable, including, but not limited to, the following:
1. Site plan drawn to scale showing parcel and building dimensions.
 2. Location of all buildings and their square footage.
 3. Streets, curb cuts, driveways, access roads, parking spaces and off-street loading areas, and estimated traffic generation.
 4. Existing topography.
 5. Finished grading and drainage plan.
 6. Type of business or activity and proposed number of employees.
 7. Proposed floor plan of any building and use indicated.
 8. Sanitary sewer and water plan with estimated use per day and storm water management plan
 9. Proposed sidewalks and landscaping and lighting plans.
 10. Soil type and soil limitations for the intended use. If sever soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices and/or engineering to be used to overcome said limitation shall be made part of the permit application.
 11. A location map showing the general location of the proposed conditional use within the Township.
 12. A map showing all principal land use within three hundred fifty (350) feet of the parcel for which application is being made.
 13. Any other information deemed necessary by the Zoning Administrator or Planning Commission.

Hinckley Township Zoning Ordinance

- C. The planning Commission shall set a date for a public hearing. Notice of such hearing shall be published in the official newspaper of the Township at least ten (10) days prior to the date of the hearing. An individual notice shall be sent to all property owners of record within one quarter (1/4) mile of the affected property. A copy of the notice and a list of the property owners and address to which the notice was sent shall be attested to by the Zoning Administrator and made part of official record. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.
- D. The Planning Commission shall consider the request at the public at the public hearing at which the applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed conditional use.
- E. The planning Commission and Township staff shall have the authority to request additional information from the applicant or to retain expert testimony at the expense of the applicant if determined to be necessary in reviewing the request.
- F. The Planning Commission shall consider possible effects of the proposed conditional use. Its judgment shall be based upon (but not limited to) the following general requirements and applicable specific requirements set forth as follows:
 - 1. General Requirements.
 - a. The Comprehensive Plan and development policies of the Town
 - b. The use will not create an excessive demand on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
 - c. The use will be sufficiently compatible or separated by distance or screening from adjacent development or land so that existing development will not be a deterrence to development of vacant land.
 - d. The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties.
 - e. The use in the opinion of the Town, is reasonably related to the overall needs of the Township and to the existing land use.
 - f. The use is consistent with the purposes of the zoning ordinance and the purposes of the zoning districts in which the applicant intends to locate the proposed use.
 - g. The use will not cause traffic hazards or congestion.
 - 2. Specific Requirements. The conditional use application shall further comply with the minimum specific requirements “a” through “p” in 3 below which pertains to each designated conditional use as indicated below.

Hinckley Township Zoning Ordinance

| <u>Conditional Use</u> | <u>Specific Requirements</u> |
|--|------------------------------------|
| Residential Uses – residences, state licensed day care and state licensed residential facilities, inns | a, c, d, e, f, g, i, j, k |
| Commercial Uses – Retail, wholesale, service | a, b, c, d, e, f, g, h, i, j, k, l |
| Manufacturing Uses – solid waste facilities, salvage operations | a, b, c, d, e, f, g, h, i, j, k, l |
| Commercial (public or club) recreation facilities – parks, campgrounds, facilities kennels | a, b, c, d, e, f, g, h, i, j, k, l |
| Churches, government buildings | a, b, c, d, e, f, g, i, j |
| Organized group camps, private club buildings | a, b, c, d, e, f, g, i, j, l |
| Commercial extraction of sand, gravel, minerals, rock | a, b, c, d, e, f, g, j |
| Cemeteries, parking lots | a, b, c, d, g, i, j |
| Home occupations | a, b, c, d, f, g, h, i, j, k |
| Commercial communication towers and antennas | m, n, o, p |

3. Specific Requirements.

- a. The land area and setback requirements of the property containing such a use or activity shall be the minimum established for the district.
- b. When abutting a residential use in a district permitting residences, the use shall be appropriately screened and landscaped.
- c. Where applicable, all Town, County, State and Federal laws regulations and ordinances shall be complied with and all necessary permits secured.
- d. Signs shall not adversely impact adjacent or surrounding conforming uses.
- e. Adequate off-road parking and loading shall be provided. Such parking and loading shall be screened and landscaped from abutting residential uses located in a district permitting residences.
- f. The road servicing the use or activity is of sufficient design to accommodate the proposed use or activity; and such use or activity shall not be generated such traffic to create a nuisance or hazard to existing traffic or to surrounding land uses, or result in the need for excessive road improvements or maintenance.
- g. All access roads, driveways, parking areas, and outside storage, service, or sales areas shall be surfaced to control dust.

Hinckley Township Zoning Ordinance

- h. All open and outdoor storage, sales and service areas shall be screened from view from abutting residential uses located in a district permitting residences.
 - i. All lighting shall be designed with shrouds or lenses to direct or diffuse light as to not have a glaring, direct source of light visible from adjacent residential areas or from the public streets.
 - j. The site shall be properly drained to control surface water runoff and prevent erosion.
 - k. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence.
 - l. Where structures combine residential and nonresidential uses, such uses shall be separated and provided with individual outside access, and the uses shall not conflict in any manner.
 - m. Proximity of the tower to residential structures and residential district boundaries.
 - n. Location of tower and antennas to minimize the visual obtrusiveness.
 - o. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
 - p. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures.
- G. The Planning Commission may impose such additional restrictions or conditions as deemed necessary to protect the public interest. When appropriate, restrictive covenants may be entered into regarding such matters. These conditions, in addition to those specific requirements set forth in this section may include, but are not limited to the following:
- 1. Matters relating to the architecture or appearance
 - 2. Establishing hours of operation
 - 3. Increasing the required lot size or yard dimension.
 - 4. Limiting the height, size or location of buildings.
 - 5. Controlling the location and number of vehicle access points.
 - 6. Increasing the street width and load capacity.
 - 7. Increasing the number of required off-street parking spaces.
 - 8. Limiting the number, size, location or lighting of signs.
 - 9. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
 - 10. Designating sites for open spaces.

Hinckley Township Zoning Ordinance

- H. Following the conclusion of the public hearing, the Planning Commission shall make a finding of fact and recommend action or conditions relating to the request to the Town Board.

Upon receiving the report and recommendation of the Planning Commission, the Town Board shall either:

1. Approve or disapprove the request as recommended by the Planning Commission, based upon whether the application meets requirements stated in this Ordinance.
2. Approve or disapprove the recommendation of the Planning Commission with modifications, alterations, or differing conditions. Such modifications, alterations or differing conditions shall be in writing and made part of the Board's records, or
3. Refer the recommendation back to the Planning Commission for further consideration. This procedure shall be followed only one time on a singular action.

Approval of a request shall require passage by two-thirds (2/3) vote of the full Town Board. The Zoning Administrator shall notify the applicant of the Board's action.

- I. A certified copy of every conditional use permit shall be filed by the Zoning Administrator with the County Recorder
- J. The decision of the Town Board shall be final, subject to judicial review.
- K. In the case of denial of the application, the applicant cannot reapply for the same project within six (6) months of the Board's action.

Subd. 2 - Expiration of Conditional Use Permit by Non-Use

Whenever within one (1) year after granting a conditional use permit, the work as permitted by the permit shall not have been completed, such permit shall expire unless an extension of time in which to complete the work has been granted by the Town Board. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original conditional use permit. There shall be no charge for the filing of such a petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the conditional use permit. Such petition shall be presented to the Planning Commission for a recommendation and to the Town Board for a decision and shall be requested only one time on a singular action. Upon expiration of a conditional use permit, the County Recorder shall be notified of the termination of the permit.

Subd. 3 - Amended Conditional Use Permit

Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued.

Subd. 4 - Performance Bond

The Town Board shall have the authority to require a performance bond or other security when it is deemed necessary and appropriate.

Hinckley Township Zoning Ordinance

- A. Except in the case of non-income producing residential property, upon approval of a conditional use permit the Board may require a surety bond, cash escrow, certificate of deposit, securities, or cash deposit prior to the issuing of zoning permits or initiation of work on the proposed improvements or developments. Said security shall guarantee conformance and compliance with the conditions of the conditional use permit and this Ordinance.
- B. The security may be in the amount of the Town Board's estimated costs of labor and materials for the proposed improvements or development. Said project can be handled in stages upon the discretion of the board.
- C. The Town Board may hold the security until completion of the proposed improvements or development and a certificate indicating compliance with the conditions and ordinances of the Township has been issued by the Zoning Administrator.
- D. Failure to comply with the conditions of the conditional use permit and/or ordinances of the Board may result in forfeiture of the security.

Hinckley Township Zoning Ordinance

Section 17 - INTERIM USES

Subd. 1 - Interim Uses

An “interim use” is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

Subd. 2 - Requirements for Interim Uses

An interim use permit may be granted if:

- A. The use is allowed for as a conditional use within the zoning district and conforms to all other zoning regulations.
- B. The date or event that will terminate the use can be identified with certainty.
- C. 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.
- D. The user agrees to any conditions that the governing body deems appropriate for permission of the use.

Any interim use may be terminated by a change in zoning regulations

Subd. 3 – Conditions

The Planning Commission may impose additional restrictions or conditions upon the issuance of an interim permit as deemed necessary to protect the public interests.

Subd. 4 – Procedure

The procedure for considering an interim use permit application is the same procedure as for a conditional use permit as set forth in Subd. 1, 2, 3 and 4 of Section 17 of this Ordinance.

Hinckley Township Zoning Ordinance

Section 18 - AMENDMENTS

Subd. 1 - Initiation of Amendments

The Town Board or Planning Commission may, upon their own motion, initiate a request to amend the text or the district boundaries of this Ordinance. Any person owning real estate within the Township may initiate a request to amend the district boundaries or text of this Ordinance so as to affect the said real estate.

Subd. 2 - Procedure

- A. Requests for amendments as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall also be accompanied by the application fee and complimentary copies of detailed written and graphic materials fully explaining the proposed amendment. The Zoning Administrator shall present said application, along with all related information, to the Planning Commission at its next regular meeting. After determining that the application has been properly filed and is complete, the Planning Commission shall schedule a public hearing to consider the request at the next earliest meeting following proper notification periods.
- B. The application shall be accompanied by written and graphic materials including, but not limited to the following information:
 1. A description of any land area affected by the application.
 2. Stated reason for requested change.
 3. Statement on compatibility to the Comprehensive Plan and other Township Plans and policies.
 4. Text of portion of the existing ordinance to be amended.
 5. Proposed amended text and statements outlining any other effects that the amendment may have on other areas of this Ordinance.
 6. Information on any specific project related to the amendment request including, but not limited to the following:
 - a. Site plan drawn to scale showing the parcel and existing and proposed buildings and structures and their dimensions and locations.
 - b. Curbs, driveways, access roads, parking and loading areas, and sidewalks.
 - c. Surface water drainage plans sufficient to drain and dispose of surface water.
 - d. Existing and proposed utilities including storm sewers, sanitary sewers, and water supply.
 - e. Soil type and soil limitations for the intended use.
 7. Additional information which may be requested by the Planning Commission.

Hinckley Township Zoning Ordinance

- C. The planning Commission shall set a date for a public hearing. Notice of such hearing shall be published in the official newspapers of the Township at least ten (10) days prior to the date of the hearing. When the application of the amendment involves changes in district boundaries affecting an area of five (5) acres or less, written notice shall also be sent to all property owners of record within one-quarter (1/4) mile of the affected property. A copy of the notice and a list of the property owners and addresses and local governments to which the notices were sent shall be attested to by the Zoning Administrator and made part of official record. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.
- D. The planning Commission shall consider the request at the public hearing at which the applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed amendment.
- E. The Planning Commission and Township staff shall have the authority to request additional information from the applicant or to retain expert testimony with the consent and at the expense of the applicant if said information is declared to be necessary by the Township in reviewing the request.
- F. The Planning Commission shall consider possible affects of the proposed amendment. Its judgment shall be based upon, but not limited to, the following criteria:
 - 1. Whether the amendment will create an excessive demand on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
 - 2. Whether the amendment is sufficiently compatible so that existing development will not be depreciated in value and there will be no deterrence to development of vacant land.
 - 3. The amendment in the opinion of the Township is reasonably related to the overall needs of the Township.
 - 4. The amendment is consistent with the intent and purposes of the zoning ordinance.
 - 5. The amendment will not cause traffic hazards or congestion.
- G. Following the conclusion of the public hearing, the Planning Commission shall make a finding of fact and recommended such actions or conditions relating to the request to the Town Board.
- H. Upon receiving the report and recommendation of the Planning Commission, such reports and recommendations shall be entered in and made part of the permanent written record of the Town Board meeting. The Town Board shall either:
 - 1. Approve or disapprove the request as recommended by the Planning Commission, based upon whether the application meets the requirements stated in this Ordinance.
 - 2. Approve or disapprove the recommendation of the Planning Commission with modifications, alterations, or differing conditions. Such modifications, alterations or differing conditions shall be in writing and made part of the Board's Records, or

Hinckley Township Zoning Ordinance

3. Refer the recommendation back to the Planning Commission for future reconsideration. This procedure shall be followed only one time on a singular action.
 - I. Approval of a request shall require passage by two-thirds (2/3) vote of the Town Board. The Zoning Administrator shall notify the applicant of the Town Board's action.
 - J. The decision of the Town Board shall be final, subject to judicial review.
 - K. In the case of denial of the application, the applicant cannot reapply for the same amendment and project within six (6) months of the Board's action.

Hinckley Township Zoning Ordinance

Section 19 - VARIANCES

Subd. 1 - Procedures

- A. Request for variances, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall also be accompanied by the application fee and complimentary copies of detailed written and graphic materials fully explaining the proposed change, development and use. The Zoning Administrator shall present said application, along with all related information, to the Board of Appeals and Adjustments at its next regular meeting. After determining that the application has been properly filed and is complete, the Board of Appeals and Adjustments shall schedule a public hearing to consider the request at the next earliest meeting following proper notification periods.
- B. The application shall be accompanied by a site plan of the proposed variance showing such information as may be necessary or desirable, including, but not limited to the following:
- The names and addresses of the petitioner or petitioners, and their signatures to the petition.
1. A specific description of the area for which the variance is requested and addresses of all owners of property lying within five hundred (500) feet of such area, and a description of the property owned by each.
 2. Proposed use of land for which a variance is requested.
 3. A statement of the compatibility of the proposed variance with the Township Comprehensive Plan.
 4. A legal description of the property for which the variance is requested.
 5. A detailed map of the property showing the location of proposed buildings, and dimensional variances requested, and existing land uses and buildings of adjacent properties.
- C. The Board of Appeals and adjustments shall set a date for the public hearing. Notice of such hearing shall be published in the official newspaper of the Township at least ten (10) days prior to the date of the hearing. Written notice shall also be sent to all property owners of record within five hundred (500) feet of the affected property in incorporated areas and unincorporated areas. A copy of the notice and a list of the property owners and addresses and local governments to which the notices were sent shall be attested to by the Zoning Administrator and made part of official record. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempts to comply with this subdivision has been made.
- D. The Board of Appeals and Adjustments shall consider the request at the public hearing. The applicant or a representative thereof, shall appear before the Board of Appeals and adjustments in order to answer questions concerning the requested variance.
- E. The Board of Appeals and Adjustments staff shall have the authority to request additional information from the applicant or to retain expert testimony, at the expense of the applicant, when said information is declared necessary.

Hinckley Township Zoning Ordinance

- F. Following the public hearing at which the request was considered, the Board of Appeals and Adjustments shall make a finding of fact. Such findings shall be entered in and made a part of the written record of the Board of Appeals and Adjustments meeting.
1. Variances – In considering requests for variances, the Board of Appeals and adjustments shall make a finding of fact as to whether the request meets all of the following cases.
 - a. The proposed action will be in keeping with the spirit and intent of the Comprehensive Plan and Ordinance.
 - b. The property in question cannot be put to a reasonable use if used under conditions allowed by this Ordinance.
 - c. The plight of the landowner is due to circumstances unique to the property and not created by the landowner.
 - d. The variance, if granted, will not alter the essential character of the locality or adversely impact the environment.
 - e. The variance requested is the minimum variance which would alleviate the hardship.

If the variances request meets all of the conditions of items (a) through (e) above, the variance may be granted. Economic considerations alone shall not constitute an undue hardship if reasonable use of the property exists under the terms of this Ordinance. Access to direct sunlight in cases of solar energy systems shall constitute grounds for granting a variance. The Board of Appeals and Adjustments may not permit a variance any use which is not permitted within the zone where the property is located.

- G. Approval of variances shall require passage by two-thirds (2/3) vote by the Board of Appeals and adjustments. The Zoning Administrator shall notify the applicant of the action. The decision of the Board of Appeals and Adjustments shall be final, subject to judicial review.
- H. A certified copy of every variance shall be filed with the County Recorder.
- I. In the case of denial of the application, the applicant cannot reapply for the same amendment and project within six (6) months of the Board action.

Subd. 2 - Expiration of Variance

Whenever within one (1) year after granting a variance the work as permitted by the variance has not been completed, then such variance shall expire unless a request for extension of time in which to complete the work has been granted by the Board of Appeals and Adjustments. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original variance. There shall be no charge for the filing of such request. The written request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance. Such request shall be presented to the Board of Appeals and Adjustments for a decision, and shall be requested only one time on a singular action.

Hinckley Township Zoning Ordinance

Subd. 3 - Performance Bond.

The Board of Appeals and Adjustments shall have the authority to require a performance bond or other securities when it is deemed necessary and appropriate.

- A. Except in the case of non-income producing residential property, upon approval of a variance the Board may require a surety bond, cash escrow certificate of deposit, securities or cash deposit prior to the issuing of land use permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the variance and this Ordinances.
- B. The security may be in the amount of the Board's estimated cost of labor and materials for the proposed improvements or developments.
- C. The Board may hold the security until completion of the proposed improvements or development and a certified indication compliance with the variance and ordinances of the Board has been issued by the Zoning Administrator.
- D. Failure to comply with the conditions of the variance and/or ordinances of the Board may result in forfeiture of the security.

Hinckley Township Zoning Ordinance

Section 20 - APPEALS

Subd. 1 - Procedures

- A. An appeal, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such appeal shall be accompanied by the appeal fee and complimentary copies of detailed written and graphic materials fully explaining the appeal. The Zoning Administrator shall refer said appeal, along with all related information, to the Board of Appeals and Adjustments for consideration at its next meeting.
- B. The appeal shall be accompanied by information which may be necessary or desirable, including, but not limited to the following:
 - 1. The particular order, requirement, decision or determination from which the appeal is taken.
 - 2. The name and address of the appellant.
 - 3. The grounds for the appeal.
 - 4. The relief requested by the appellant.
- C. An appeal stays all proceedings in furtherance of the action appealed unless the Board of Appeals and Adjustments, to whom the appeal is taken, determines that by reason of the facts stated in the application, a stay would cause imminent peril to life or property.
- D. The Board of Appeals and Adjustments shall consider the appeal at its meeting. The appellant and officer from whom the appeal is taken shall appear before the Board of Appeals and Adjustments in order to answer questions concerning the appeal.
- E. Following the meeting at which the request was considered, the Board of Appeals and Adjustments may reserve or affirm, wholly or partly; or may modify the order, requirement, decision or determination appealed and shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit or allow for an action. The reasons for the Board's decisions shall be stated in writing.
- F. All decisions by the Board of Appeals and Adjustments in hearing appeals from any administrative order, requirement, decision, or determination shall be final, subject to judicial review.

Subd. 2 - Expiration of Appeal by Non-Use

Whenever within one (1) year after granting an appeal the work as permitted by the appeal shall not have been completed, then such appeal shall expire unless a petition for extension of time in which to complete the work has been granted by the Board of Appeals and Adjustments. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original appeal. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the appeal. Such petition shall be presented to the Board of Appeals and Adjustments for a decision, and shall be requested only one (1) time on a singular action.

Hinckley Township Zoning Ordinance

Section 21 - PENALTIES AND VIOLATIONS

Subd. 1

Any person who violates any provision of this Ordinance shall, upon conviction thereof, be fined not more than seven hundred dollars (\$700) for each offense, or imprisoned for not more than ninety (90) days, or both. Each day that the violation is permitted to exist constitutes a separate offense.

Hinckley Township Zoning Ordinance

Section 22 - DATE OF EFFECT

This ordinance shall become effective upon its adoption and publication.

**ADOPTED BY THE TOWN BOARD OF HINCKLEY, PINE COUNTY, MINNESOTA THIS
25 DAY OF January, 2021.**

BY: _____
Chairman

ATTEST: _____
Clerk

Hinckley Township Zoning Ordinance

Section 23 - ZONING DISTRICT MAP

