

Stearns County
LYNDEN TOWNSHIP
Ordinance #12
Lynden Township
Road and Right-of-Way Specifications

Adopted 7-2-2018
Amended 4-1-2019 Document A1524998
Amendment rennumbers Section 7 to Section 8, Adds Section 9, Adds Language under new Section 7
Minnesota Special Farm Products
Amended 3-7-2022 Amended Document A1542185 – Section 103 and Section 6
Amended 10-3-2022 Amended Document A1542185 – Section 607

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Stearns County
Lynden Township
ORDINANCE #12

Lynden Township Road and Right-of-Way Specifications

The Town Board of Lynden Township ordains as follows:

SECTION 1: GENERAL PROVISIONS.

Section 100. Title.

This Ordinance shall be known, cited, and referred to as the “Lynden Township Road and Right-of-Way Specifications Ordinance”. When referred to herein, it shall be known as “this Ordinance”.

Section 101. Statutory Authorization.

- A. This Ordinance is adopted pursuant to the authorization and policies contained in *Minnesota Statutes, Chapters 365, 366 and 462*; or its successor statutes.
- B. Lynden Township Board (“Township”) has general authority to adopt ordinances intended to protect the public’s health, safety, and welfare as provided in Minnesota Statutes (“M.S.”) § 365.10, Subd. 17, or its successor statutes.

Section 102. Words and Terms Defined.

For the purpose of this Ordinance, certain terms or words used herein shall be defined as follows:

- A. **Owner** means an individual, association, syndicate, partnership, corporation, limited liability company, trust or any other legal entity holding an equitable or legal ownership interest in land, buildings, structures, dwelling unit(s) or other property, and includes the manager, agent, or subcontractor of that owner.
- B. **Person** means a natural person of either sex, a firm, partnership, corporation, limited liability company, any other association of people, and includes the manager, agent, or subcontractor of that person or organization.
- C. **Ditch** means the area of road right-of-way between the edge of the gravel or bituminous top and the property line.
- D. **Days** means calendar days.
- E. **Board** or **Township Board** means the Lynden Township Board of Supervisors.
- F. **Planning Commission** means the Lynden Township Planning Commission.
- G. **Board of Adjustment** means the Lynden Township Board.

- H. **Approach** means the area of the Right of Way between the traveled surface of the road and the adjacent property that is intended to provide access for vehicles or equipment from the road to the adjacent property.
- I. **Headwall** means rock, concrete, masonry, metal, timber, or other similar materials placed on the sides of an approach as support, to prevent erosion, or for decorative purposes.
- J. **Junk** means old or scrap hazard signs, copper, brass, rope, rags, batteries, paper, synthetic or organic, trash, garbage, waste materials, rubbish, rubber debris, appliances, waste, or junked, dismantled, or wrecked automobiles or farm or construction machinery or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.
- K. **Right of Way** (“R.O.W.”, “ROW”) means the area on, below, or above the public roadway, bicycle lane, and public sidewalk in which the town has an interest, including for travel purposes and utility and drainage easement.
- L. **County** mean Stearns County.
- M. The word “**shall**” is mandatory and not discretionary.
- N. The word “**may**” is permissive.
- O. Words used in the present tense shall include the future; words used in the singular shall include the plural and the plural the singular; words of one gender include the other genders.
- P. Administrative or Agency Rules, Federal or State Statutes, County or Township Ordinances shall be the current version cited or its successor rule, statute, or ordinance.
- Q. Words shall be given their common usage if not defined herein.

Section 103. Adoption by Reference.

In accordance with the Memorandum of Understanding (“MOU”) between the County of Stearns and the Township of Lynden, those sections of *Stearns County Subdivision Ordinance #230, or successor ordinance* enacted by reference as part of *Lynden Township Subdivision Ordinance #8* shall apply within the Township of Lynden. *The Lynden Township Subdivision Ordinance #8* is consistent with, as restrictive as or more restrictive than the *Stearns County Ordinance #230*, or its successor ordinances. Likewise, *Stearns County Ordinance #439 and M.S. § 160.27 PARTICULAR USES OF RIGHT-OF-WAY; MISDEMEANORS* is adopted and incorporated into this ordinance by reference in its entirety and is applicable to all Township right-of-way or as part of a proposed plat in Lynden Township.

Section 104. Jurisdiction.

These regulations apply to all Lynden Township Roads existing or part of a proposed plat located within Lynden Township, Stearns County, Minnesota, as provided by law.

Section 105. Interpretation.

In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in accordance with the underlying policies of the Township and shall not be deemed a limitation or repeal of any other powers granted by State Statute. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, code, statute, resolution or regulation, the regulations which are more restrictive or impose higher standards or requirements shall prevail.

Section 106. Severability.

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 107. Repealer.

Lynden Township Subdivision Ordinance #8 filed on May 18, 2012, as document A1369536 with Stearns County Recorder is hereby repealed.

SECTION 2: TOWNSHIP ACCESS STANDARDS

Section 200. General Access Standards.

- A. All accesses onto a Township road shall be aligned to be straight and perpendicular to the centerline of the adjacent Township roadway within the limits of the Township right of way.
- B. When the opportunity exists, access locations will be directed onto roadways with a lower functional classification.
- C. All underground cables, wires, utilities, gas or pipelines, or trees, shrubs, and other vegetation or structures including but not limited to statues, monuments, signs, entrance medians (divided entrances), fencing, etc., shall be placed or constructed outside of the permanent Township right of way. Any deviation from this may require an encroachment agreement with the township at the township's discretion.
- D. Any cables, wires, utilities, gas or pipelines, or trees, shrubs, and other vegetation or structures placed in the township right-of-way needing to be relocated shall be done at no cost to the township and may require an encroachment agreement with the township if none exists.
- E. Driveways will be aligned with driveways on the opposing side of the roadway, if possible.
- F. Culverts, where needed as determined by the Township, that are constructed or placed within the Township right of way as part of a driveway should be specified as a minimum of fifteen (15) inches in diameter. Culverts shall be installed at the expense of the property owner and conform to current MNDOT specifications.
- G. Driveways may be shared between adjacent properties / parcels when required by traffic volume and/or geographical layout.
- ~~H. Only one (1) driveway per property / parcel will be allowed, except one additional access point may be allowed in the Industrial zone with non-residential uses and the R-5, R-10, or A-40 zoning districts on parcels of two (2) or more acres with an approved site plan.~~
- I. Plans for new driveways shall be submitted to the ~~Lynden Township Board~~ Planning and Zoning Administrator, Lynden Township Building Official, or Road Manager for review and approval prior to issuance of a permit.

Section 201. New Access Spacing Standards.

Each new driveway onto Township roads may be separated from adjacent accesses according to the following standards:

- A. Collector roads, accesses on the same side of the road shall be located at a minimum of three hundred (300) feet (County Roads 143, 145, 146, 44, 45, 75).
- B. Driveways onto Township roads shall have a minimum separation distance of one hundred twenty-five (125) feet unless the front footage of the lots dictates other.

- C. Field accesses will be spaced on a one (1) access per forty (40) acre frontage.
- D. Separation distances, within *Sections A, B, and C, supra*, may be modified by recommendation of the Lynden Township Board, Planning Commission, or Building Official due to parcel size, roadway / street access geometrics and/or proposed use of street.

Section 202. Access Width Standards.

- A. Residential access surfacing width shall be a minimum of sixteen (16) feet to a maximum of twenty-four (24) feet.
- B. Commercial and industrial access surfacing shall be a minimum of thirty (30) feet in width and may be a maximum width of forty (40) feet if the design requires additional width.
- C. Field accesses shall be a minimum of sixteen (16) feet in width.

Section 203. Driveway Access Standards.

- A. All residential dwellings or combinations of residential dwellings that access Township streets / roads shall be constructed to ensure access for emergency vehicles and shall be continuously maintained. The access shall be constructed of an all-weather (i.e. gravel, bituminous, or concrete) driving surface.

Section 204. Driveway Permit Criteria

All new driveway/access on to Township Road shall meet the following standards:

- A. Within the R-1 zoning district are limited to one (1) driveway per property / parcel will be allowed in the R-1 zoning district with an approved application, provided that no more than one additional driveway access may be permitted when an accessory structure cannot reasonably be accessed from the driveway that serves the residence. Such second access must meet the requirements set forth in Section 204.E.
- B. Within the R-5 and R-10 zoning districts are limited to no more than two (2) driveways per property / parcel with an approved application.
- C. Within the A-40 zoning district are limited to no more than two (2) driveways per property / parcel with an approved application.
- D. Within the Commercial and Industrial zoning districts are limited to no more than three (3) driveways per property / parcel with an approved application.
- E. An approved Driveway/Access application shall meet the General Access Standards, New Access Spacing Standards, Access Width Standards and Driveway Access Standards of Section 2 of this Ordinance.
- F. If an applicant wishes to appeal a denial of a driveway permit due to an alleged error in applying the criteria of this section 204, the strict enforcement of these standards, they may request to appeal a denied Driveway/Access Permit to from the Lynden Township Board of Adjustment for review.

SECTION 3: ACCESS AND STORM WATER MANAGEMENT FOR PLATTED SUBDIVISIONS

Section 300. New Driveways.

New driveways for subdivisions that access Township streets/roads shall be subject to the following standards:

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- A. A right-of-way (“ROW”) exaction for highway purposes (controlled access) will be required from subdivision properties located adjacent to Township roadways. The width of the access will be based on the functional classification of the adjacent roadway. Township ROW is thirty-three (33) feet from the centerline of the road.
- B. Preliminary and Final plats will be reviewed by the Town Board or Planning Commission and/or Township Engineer with respect to access and/or street access locations, geometrics and storm water management.
- C. Proposed access locations shall be clearly indicated on the preliminary plat or accompanying documents.
- D. The plat shall provide for dedicated rights of access to the Township for areas adjacent to the Township right of way.
- E. Developments with less than six (6) building sites may be required to provide common shared accesses at least through the Township’s right of way. One (1) access may serve a minimum of two (2) homes or parcels, consistent with this ordinance.
- F. Developments with six (6) or more building sites shall be required to provide a common shared access to the entire subdivision.
- G. No additional drainage shall be allowed into the Township Road right of way. Pre-development and post-development runoff shall balance. Water shall be managed on site through infiltration. A drainage impact study will be required if subdivision drainage flows to the Township right of way. If the drainage study indicates significant increases in drainage to the Township right of way, the developer will analyze capacity of the existing drainage system (*See Stearns County Ordinances #439 Section 7.25 and #230 Section 9.3.4, or its successor Ordinances*).

SECTION 4: LYNDEN TOWNSHIP ROAD SPECIFICATIONS AND STANDARDS

The following standards are subject to any reasonable modifications as agreed to by the Township Board and the Developer prior to construction.

Section 400. Design Specifications.

- A. As illustrated within *Figure 1*, a minimum road right of way of sixty-six (66) feet for residential areas and as illustrated within *Figure 2*, a minimum right of way of eighty (80) feet for commercial and industrial areas is required.
- B. As illustrated within *Figure 1*, a minimum finished roadway top width of twenty-eight (28) feet for residential areas and as illustrated within *Figure 2*, a minimum top width of thirty-six (36) feet for commercial and industrial areas, which includes driving surface width and shoulders is required.
- C. Roadway shall be built to a minimum of thirty (30) MPH design speed in residential areas and a fifty-five (55) MPH design in other areas.
- D. All dead end roads shall have a minimum right of way of one hundred twenty (120) feet diameter and surface diameter of ninety (90) feet for a turnaround.
- E. Further design specification are delineated and illustrated within *Figures 1 and 2*, respectively, for Residential and Commercial roadways.

Section 401. Construction Specifications.

- A. A minimum ditch separation shall be two (2) feet below finished grade, and a minimum ditch width of six (6) feet, when conditions allow.
- B. A minimum slope ratio for in-slopes shall be 4:1 and back-slope shall be 4:1.
- C. A plant mix bituminous surface shall be tested and placed in accordance with MNDOT Specifications. This surface shall be twenty-four (24) feet wide and have a compacted bituminous thickness of three (3) inches for residential areas and twenty-eight (28) feet wide and have a minimum compacted bituminous thickness of four (4) inches for commercial and industrial areas.

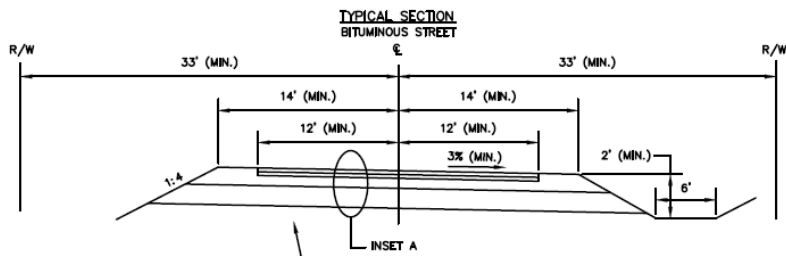
Section 402. Drainage and Erosion Standards.

- A. All roads shall be built to be free of drainage problems.
- B. All apparent snow traps shall be eliminated.
- C. All roads shall be built to be free of potential or real flooding.
- D. All roads shall be constructed to handle a ten (10) year frequency storm and the design should be reviewed for a fifty (50) and one hundred (100) year frequency storm assessment.
- E. All topsoil removed for construction shall be replaced on road inslopes, backslopes, and ditch bottoms, covered with four inches of black dirt and shall be seeded with MnDOT roadside seeding specification.
- F. Culverts under a township road shall be placed to maintain drainage required. All culverts shall be a minimum diameter of twenty-four (24) inches, as per MnDOT specifications.
- G. All projects must be constructed to comply with MPCA's NPDES Construction General Permit.

Section 403. Engineering and Maintenance Standards.

- A. All roads shall be subject to inspection and acceptance by the Township Board and the Township Engineer for compliance with the above requirements. The Township Board will not accept any Road dedications by private owners until all conditions of the above specifications have been met.
- B. The Township Board reserves the right to test bore the finished product for depth, content and aggregate sieve analysis at the developer's expense.
- C. The Township shall not be responsible for shrubs, trees, flowers, or any other personal property within the one hundred-twenty (120) foot right-of-way, cleared diameter of turnarounds.
- D. A new road may be accepted by the Township only after a two (2) year period commencing with the acceptance by the Township Engineer. No maintenance will be performed by the Township before this acceptance. Crack-filling and other maintenance deficiencies may be required to be corrected by the landowner or developer prior to the acceptance of new township roads.

Figure 1. RESIDENTIAL STREET Cross-Section



NOTE:
ALL ORGANIC OR OTHER UNSUITABLE MATERIAL
SHALL BE REMOVED FROM BENEATH THE SUBGRADE.
SUBGRADE APPROVED BY GEOTECHNICAL ENGINEER



INSET A

- 1.5" TYPE SP 9.5 WEARING COURSE MIXTURE (3,C) (SPWEA340C)
- BITUMINOUS TACK COAT
- 1.5" TYPE SP 12.5 WEARING COURSE MIXTURE (3,C) (SPWEB340C)
- 6" AGGREGATE BASE, CLASS 5
- MIN. 18" SUBCUT BACKFILL WITH GRANULAR MATERIAL, MNDOT 3149.28
- GEOTEXTILE FABRIC, MNDOT TYPE 5, NONWOVEN
- COMPACTED SUBGRADE


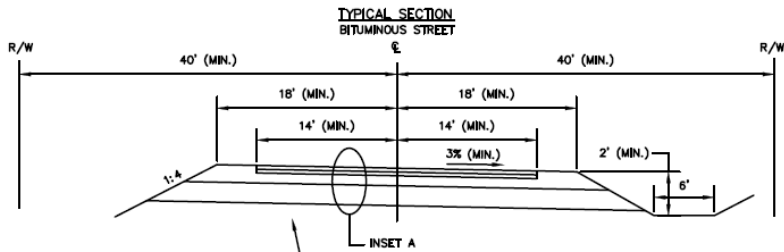
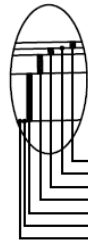
 PHONE: 320.229.4300 1200 25TH AVENUE SOUTH P.O. BOX 1717 ST. CLOUD, MN 56302-1717 www.sehinc.com	FILE NO. LYNDE COMMON	TYPICAL SECTION FOR RESIDENTIAL STREETS - RURAL SECTION LYNDEN TOWNSHIP, MINNESOTA	FIGURE NO. 1
	DATE: 1/22/2018		

Figure 2. COMMERCIAL / INDUSTRIAL STREET Cross-Section




NOTE:
ALL ORGANIC OR OTHER UNSUITABLE MATERIAL
SHALL BE REMOVED FROM BENEATH THE SUBGRADE,
SUBGRADE APPROVED BY GEOTECHNICAL ENGINEER



INSET A

- 2" TYPE SP 9.5 WEARING COURSE MIXTURE (3,C) (SPWEA340C)
- BITUMINOUS TACK COAT
- 2" TYPE SP 12.5 WEARING COURSE MIXTURE (3,C) (SPWEB340C)
- 8" AGGREGATE BASE, CLASS 5
- MIN. 18" SUBCUT BACKFILL WITH GRANULAR MATERIAL, MNDOT 3149.28
- GEOTEXTILE FABRIC, MNDOT TYPE 5, NONWOVEN
- COMPACTED SUBGRADE

 PHONE: 320.229.4300 1200 25TH AVENUE SOUTH P.O. BOX 1717 ST. CLOUD, MN, 56302-1717 www.sehinc.com	FILE NO.	TYPICAL SECTION FOR COMMERCIAL AND INDUSTRIAL STREETS - RURAL SECTION LYNDEN TOWNSHIP, MINNESOTA	FIGURE NO. 2
	LYNDE COMMON		
	DATE:		
	1/22/2018		

SECTION 5: TOWNSHIP ADDRESSING SIGN SPECIFICATIONS AND STANDARDS

Section 500. Township Actions.

- A. **Purpose and Intent.** In order to establish a uniform process of procurement, placement, and maintenance of property addressing in Lynden Township (“Township”) consistent with Stearns County 911 addressing standards, this ordinance section is created.
- B. **Procurement.** Pursuant to Stearns County 911 addresses being assigned by Stearns County to Construction Site Permits being issued, Lynden Township through its agents or employees shall order a numbered sign and post, if needed, from its sign vendor.
- C. **Placement.** The placement or relocating of property addressing signs and posts in Lynden Township shall be consistent with Stearns County 911 addressing standards and shall only be done by Lynden Township through its agents or employees.
- D. **Maintenance.** The maintenance or repair of property addressing signs and posts in Lynden Township shall only be done by Lynden Township through its agents or employees.

Section 501. Prohibited Acts.

- A. **Signs and Posts.** Assigned property addressing signs or posts placed pursuant to this ordinance shall not be altered, removed, relocated, defaced, damaged, stolen, obliterated, or otherwise defeated or rendered useless by any person.
- B. **Gopher State One Call.** As required in MN Law Chapter 216D, no person shall dig, excavate, bore, drill, place, or drive any post or other object in the Lynden Township right-of-way without having first called **Gopher State One Call (8-1-1)** for a locate of underground utilities and to have the area marked.
- C. **Other Acts.** Any other act by any person contrary to or inconsistent with *Section 5* of this ordinance or M.S. §160.27 **PARTICULAR USES OF RIGHT-OF-WAY; MISDEMEANORS** or its successor statutes is prohibited.

SECTION 6 TOWNSHIP RIGHT-OF-WAY REGULATIONS

Section 601. Purpose and Authority.

To provide for the health, safety and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights of way, the Town strives to keep its rights of way in a state of good repair and free from unnecessary encumbrances. The regulations and management of encumbrances within the Town right of way is necessary to ensure the safety of the traveling public, allow for proper stormwater management and drainage, and allow for proper maintenance of the roadway and public utilities. Minnesota Statute §160.2715, states any obstruction of public right of way is a misdemeanor offense punishable by law. Minnesota Statute §160.27, provides that it is within the Town’s authority to remove unauthorized advertisements, buildings or structures from the road right of way at the owner’s expense.

Authority. As a road authority, the Board has broad authority to regulate what occurs within the town’s road Rights-of-Way. This authority is found in Minn. Stat. § 365.10, subd. 17, a variety of sections in chapters 160, 164, 165, 169, 222, 237, and other chapters, as well as the rules associated with those chapters.

Section 602. Intent.

The Town hereby enacts this Section 600 (“section”) relating to right of way permits and administration to impose reasonable regulation on the restriction of obstructions; as well as the placement, and maintenance of facilities and equipment currently within its rights of way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this Ordinance, persons excavating and/or obstructing the rights of way will bear financial responsibility for their work or the work of their agents or subcontractors. Finally, this Ordinance provides for recovery of out of pocket and projected costs from persons using the public rights of way.

Section 603. Interpretation.

This section shall be interpreted consistently with Minnesota Statutes Sections 237.16, 237.162, 237.163, 267.79, 237.81, and 238.086 (the “Act”) and the other laws governing applicable rights of the Town and users of the right of way. This chapter shall also be interpreted consistent with Minnesota Rules 7819.0050 – 7819.9950 where possible. To the extent any provision of this section cannot be interpreted consistently with the Minnesota Rules, shall be the interpretation most consistent with the Act and other applicable statutory and case law intended. This section shall not be interpreted to limit the regulatory and police powers of the Town to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

Section 604. Permit Required.

A utility permit must be submitted for any Township Road on which work will be performed, prior to any work within the right-of-way by any utility/contractor or sub-contractor. Emergency conditions which threaten the safety of the public and require immediate repair are exceptions to this rule. The person, utility/contractor, under emergency conditions, is permitted to begin and/or complete the necessary repairs, but first must call and leave word of such work at 320-774-8507 or email clerk@lyndentownship.net. A written permit should be completed and sent to Lynden Township the next business day. A sketch or drawing shall accompany each copy of the permit application, which will show the location of the proposed utility or other work with reference to the township road centerline and right-of-way line. A complete set of plans is required for all sewer/water projects.

Section 605. Bonds/Letter of Credit

The Township requires a Construction Performance Bond, Letter of Credit, or cash escrow deposit to the Township of a minimum of \$5,000. ***It shall be the responsibility of the applicant and property owner to abide by the special conditions listed on the permit.*** The Township reserves the right, to revoke any permit and halt work if, upon inspection of any job site, the special conditions listed on the permit are not met and/or a hazard exists for the applicant or public safety is threatened.

Section 606. Privately Owned Utility.

Any privately owned utility or structure in the right-of-way is the responsibility of the owner. The applicant and property owner is responsible for all GOPHER STATE ONE CALL locates. Any damage to unlocated private utilities or structures or objects during a permitted construction is the responsibility of the privately owned utility owner or structure owner.

Section 607. Special Conditions.

A. Trespass/Liability.

This permit allows the applicant to perform work within the limits of the Township Road Right-of-Way. The research, determination, and verification of the actual extents of the Township Road Right-of-Way is the sole burden and responsibility of the applicant. All work performed outside the Township Road Right-of-Way must be coordinated with any and all affected land owners. In no event will Lynden Township be liable for any damages, including loss of business, lost profits, business interruption, or other pecuniary loss that might arise from the applicant's lack of research, determination and verification of the actual extents of the Township Road Right-of-Way. The applicant shall save, defend, and hold harmless the Township from any and all litigation or actions resulting therefrom.

B. Traffic Control.

1. Detours
 - A. Detailed detour layouts shall be submitted to the Township for approval.
 - B. It shall be the responsibility of the applicant to notify Stearns County Law Enforcement, local government bodies, and any affected bus companies forty-eight (48) hours prior to any road closures/detours.
 - C. Immediately upon completion of work all detours, posts, barricades, and signs shall be removed from right of way.
2. Traffic Control Devices
 - A. All traffic control devices, barricades, flashers, cones, flagmen, etc. shall be furnished by the applicant and shall be in accordance with the most recent edition of the Minnesota Manual on Uniform Traffic Control Devices (MN MUTCD) and Temporary Traffic Control Zone Layouts (TTC) of same manual.
 - B. Category III Type F (i.e. "Jersey" type) barriers are required with all holes, trenches and excavations in accordance with the MN MUTCD.

C. Construction Requirements.

1. Installation shall be done according to the installation plan presented. Specifically, the installation shall be within the ditch bottom and back slopes and for it to be placed 25-ft or more from the roadway centerline. Installation requires that a line or lines are buried 36-inches deep and no closer than 25-ft from the centerline of the roadway.
2. The best situation for the Township is when the utility is located on the back slope of the ditch and as far away from the roadway as possible. At no time should installation of the utility be allowed to run parallel to the roadway within the ditch in-slope area.
3. Open cutting of bituminous or concrete surfaced roads will be allowed only at the discretion of the Township.
4. Neither supplies nor excavated materials shall be placed on the bituminous or concrete surface at any time.
5. No holes, trenches or excavations will be allowed to remain open overnight without safety devices.
6. Materials removed from the trench shall be used as backfill insofar as they are suitable. All backfill materials shall conform to MnDOT specifications for compaction. The use of heavy equipment on top of trench, slapping with backhoe

bucket and/or back casting to achieve compaction is prohibited. The applicant at no expense to the Township shall furnish any additional material required to back fill to the original grade. All the base and surface courses damaged during construction operations shall be restored to a condition equal to or better than before operations began. The applicant shall be responsible for and restore any settlement.

7. All culverts, ditches, shoulders and back slopes shall be restored to their original condition unless otherwise directed by the Township. Shoulders, which have been previously constructed or reconstructed with special materials, shall be replaced in kind. Restoration of signs, guardrails, guard posts, etc., is the sole responsibility of the applicant and shall be restored to their original condition as approved by the Township.
8. The applicant shall be responsible for the performance and work of their agents or subcontractors.

D. Horizontal Boring and Jacking.

1. Regardless of the method of construction for crossing a Township Road, the minimum depth from the road surface is always 60 inches and can be accomplished by directional boring, pneumatic gopher or jacking.
2. All crossings of Lynden Township maintained roadbeds shall be made by boring inside a casing or carrier pipe or by jacking unless otherwise directed by the Township. The auger shall lag the casing or carrier pipe by at least six inches whenever possible and never lead the carrier pipe by more than one inch.

E. Bituminous Restoration.

1. The locations and dimensions of all openings to be made in the bituminous surface shall be approved by the township prior to any cutting or any surface opening operations.
2. All openings in bituminous surfaces shall be cut in a straight line with sides smooth and vertical. No ragged edges will be permitted. Cutting shall be done with a concrete saw.
3. All necessary dust control operations shall be carried out by the applicant at no expense to Lynden Township.
4. The minimum requirement for sub-grade replacement shall be the upper 12 inches of material and shall meet MnDOT specifications for Class 5 placed in six inch layers compacted to 100 percent of standard density, at the optimum moisture content.
5. Manhole castings, gate valves boxes and other utility structures shall be set one-quarter inch below the top of the finished surface.
6. Bituminous tack coat materials and application thereof shall conform to MnDOT specification 2357 or its successor standard.
7. All bituminous surfacing shall be placed immediately after the base course is compacted. All bituminous surfacing shall be machine paved. Any exceptions must be approved by the Township. Bituminous surfacing shall be replaced to original pavement depth or to a minimum of six (6) inches of bituminous, whichever is greater and must be placed in lifts not exceeding three (3) inches. All surface restoration, regardless of size, shall conform to existing grade.
8. Any unnecessary or negligent damage to bituminous surface in conjunction with the installation and/or repair of a utility shall be cut out and replaced in kind as directed by the Township.

F. Concrete Restoration.

1. Curb and gutter, sidewalks and driveways shall be restored in accordance with MnDOT specifications 2531 and 2521 or its successor standard.

G. Utility Lines.

1. There shall be only a single pole line in the Township right-of-way on either side of the centerline thereof.
2. Exact locations of longitudinal installations on Township roads shall be shown on your sketch.
3. The minimum clearance for an overhead utility crossing a Township road, as measured from the centerline is 20 feet.

H. Section Corner Monuments.

1. Utility locations shall not interfere with the location of any section, quarter, witness or R.O.W. monuments. For assistance in locations, contact the Stearns County Surveyor or the Lynden Township Engineer.
2. The applicant shall be responsible for replacement of any existing property irons disturbed during construction.
3. The applicant shall notify the Stearns County Surveyor and the Township three (3) working days in advance of any anticipated disturbance of any section, quarter, witness or R.O.W. Monuments.
4. Any monument disturbed during the course of construction shall be reset by the Stearns County Surveyor or the Township at the expense of the applicant.

I. Attaching to Bridges/Structures.

No utility is permitted to be hung from or otherwise attached to any bridge or structure without having detailed plans approved by the Township. These plans are to show approaches to the structure, method of installation, type and dimension of housing for the utility.

J. Prohibited Installations and Activities.

It shall be unlawful, without written consent of the Town Board, for any person to place within any Township easement or right of way, any construction improvements, buildings, structures, headwalls, rocks or boulders greater than six inches in diameter (MnDOT 3601 Class I Riprap is acceptable), soils, landscaping items, or engage in any activity prohibited by Minnesota Statute §160.2715, or any other installation which may interfere with proper sight distance, vehicular safety, stormwater drainage, road maintenance operations, weed and brush control or in any manner endanger or impede the public use and proper maintenance of the easement or right of way.

1. **Drainage.** It shall be unlawful for any person to disrupt, dam, impede or slow the drainage of any ditch within an easement or right of way or other public waterways providing stormwater drainage for the roadway system, or cast or direct surface or subsurface waters into road right of way except through natural drainage ways.
2. **Cultivation.** No person may cultivate, plant, harvest, or maintain agricultural crops, trees, bushes, or shrubs within a Right-of-Way.
3. **Landscaping.** It shall be unlawful for any person to plant trees, shrubbery, crops or other vegetation within the right of way which may obstruct vehicle operator sight distance or lead to soil erosion or impede drainage. It shall be unlawful for any person to

plant trees, shrubbery, crops or other vegetation within the right of way which may obstruct vehicle operator sight distance or lead to soil erosion or impede drainage. No person may cultivate, plant, or maintain grasses, flowers, vegetables, or other vegetation in any manner that obstructs visibility of a road or otherwise interferes with, obstructs, or renders dangerous for passage a Right-of-Way. No person may place watering systems or sprinkler heads within a Right-of-Way.

4. **Obstructions.** No person may place, maintain, or allow any obstruction in a Right-of-Way other than those specifically permitted by this ordinance, by state law or rule, or by written approval of the Board. Items prohibited by this section include, but are not limited to, fences, posts, structures, piled materials, hay bales, vehicles, trailers, campers, equipment, or any other items that interfere with the safe use or the maintenance of the Right-of-Way. No person shall park a functioning vehicle in a Right-of-Way in such a way as to unreasonably interfere with the safe use of a road or the maintenance of the Right-of-Way.
5. **Junk.** No person shall place or maintain Junk in a Right-of-Way.
6. **Alteration of Grade.** No person may alter or change the depth or contour of any portion of any ditch or embankment in a Right-of-Way without written approval of the Board.
7. **Unauthorized Maintenance.** No person may work, maintain, improve, or repair the traveled portion of a right-of-way without the written approval of the Board.
8. **Damage to Right of Way.** No person shall cause damage to a Right-of-Way without the written approval of the Board. Any person doing damage within a Right-of-Way with approval of the Board shall return the Right-of-Way to at least the same condition it was in prior to the damage or be charged the town's costs to repair the damage.

K. Permitted Installations.

The following installations are permitted if constructed in accordance with standards approved by the Town Engineer: Side slopes constructed to a slope ratio no steeper than 3:1, (horizontal to vertical); standard mailbox installations; permitted roadways; properly constructed driveways or field entrance approaches to the public road; roadway appurtenances such as signs or delineators; and, approved culverts providing drainage for permitted approaches.

1. **Mailboxes.** Mailboxes and newspaper boxes are permitted within a Right-of-Way if they do not interfere with, obstruct, or render dangerous for passage a road. Mailboxes placed within a Right-of-Way must comply with all of the standards in Minnesota Rules chapter 8818. The Board may remove and replace mailboxes that do not comply with the standards as provided in Minnesota Statute section 169.072.
2. **Signs.** No sign of any nature may be placed or allowed to remain in any Right-of-Way except an official traffic sign placed by a governmental authority or other signage expressly permitted by state law, or by permission of the town.
3. **Headwalls.** No person may construct or reconstruct any headwall in a way that interferes with the safe use or maintenance of a Right-of-Way.

4. **Approaches.** No person may construct or reconstruct any approach to a road without first obtaining approval by the Board. A person may be required to submit a map or drawing of the existing or proposed approach when seeking approval.
5. **Culverts.** All culvert installations shall be approved, in writing, by the township representative prior to construction of the proposed approach. In general, only corrugated metal, reinforced concrete or dual-walled corrugated polyethylene pipe culvert materials will be approved by the Engineer. All culvert installations are to include apron end sections. The minimum pipe diameter is to be fifteen (15) inches
6. **Costs.** A person constructing or reconstructing an approach to an existing road shall be responsible for paying all of the costs related thereto, including the cost of seeking all necessary approvals and the cost of a culvert if one is required. Property owners are responsible for maintaining all approaches and associated culverts on their property at their own cost.

L. **Abatement Procedure.**

Upon discovery of a violation of this Ordinance, the Town Board or Town Engineer may issue an abatement order to the violator advising the person to correct the violation within a reasonable time. If the violator fails to comply with the abatement order by the time indicated, the Board may provide for abatement of the violation by the Town. Issuance of an abatement order does not preclude imposition of the penalty set forth in this ordinance.

1. **Emergency Abatement.** If the Board determines that the violation poses an immediate threat to public safety, the Board shall make a good faith effort to notify the violator to immediately correct the violation. If the Board is not able to promptly reach the violator or if the violator fails to comply with the correction order upon notification, the Board may provide for the abatement of the violation by the Town.
2. **Assessment of Costs.** The Town Board may deem the abatement of any violation of this Ordinance to be a public nuisance or it may initiate a public improvement pursuant to Chapter 429 of Minnesota Statutes, and in either case provide that the cost of abating the violation shall be the responsibility of the violator and owner of the property on which the violation occurs. If the Board provides for the abatement of the violation pursuant to this section, all expenses incurred by the Town, including reasonable attorney's fees and engineering fees, shall be the responsibility of the violator and the owner. If such costs remain unpaid 30 days after billing, the Town Board may certify such costs to the County Auditor for collection in a single installment as a special assessment against the owner's property abutting the site of the violation.
3. **Appeal of Costs.** If the recipient of such billing or the recipient's representative or estate disputes the reasonableness of the charges, the aggrieved party may appeal the reasonableness of the charge to the Town Board, provided notice of appeal in writing is made to the Town Clerk within fifteen (15) days after the Town Clerk has mailed a notice of delinquency to the violator and the owner. The Town Board shall then hear and pass on the reasonableness of the costs at its next regularly scheduled or special Town Board meeting.
4. **Persons Notified.** All notices regarding described violations shall be served by U.S. Mail on the violator and on all owners of record as shown in the files of the Stearns County Recorder.

5. **Penalties.** Any person who violates this Ordinance shall be guilty of a misdemeanor offense and subject to the penalties for such as provided in State law. If convicted, the person may be assessed cost of prosecution as allowed by Minnesota Statute §366.01, Subd. 10.
6. **Shared Liability.** For purposes of this Ordinance, owner means the owner of record of the property abutting the right of way on which the violation of this ordinance occurs, as contained in the records of the Stearns County Recorder. For purposes of this Ordinance, violator means the person or entity which installs or constructs or maintains a violation of this Ordinance. After service of an abatement order, both the owner and the violator are liable for all criminal and civil costs and penalties associated with the violation and its abatement.

N. Prohibited Activities In The Right Of Way And Public Property. It is unlawful for any person, except

- (1) a Town official or employee acting within the course and scope of his or her employment,
- (2) a contractor acting within the course and scope of a contract with the Town, or
- (3) a franchisee acting within the course and scope of its franchise from the Town, to make any excavation, opening or tunnel in, over, across or under a street or other public property, including all Town right of way, without first having obtained a permit from the Township as herein provided. A franchisee shall give the Town twenty-four (24) hours notice prior to commencing any such work on streets or other public property.

The prohibitions, requirements, and restrictions contained in this ordinance do not apply to: the Town; town officers, employees, or agents while operating within the course and scope of their duties for the Town; or contractors while performing services within the scope of a contract with the Town.

O. Application.

Application for a permit to make an excavation in a Town street, right of way, or other public property shall set forth the name and address of the applicant, the place, purpose and size of the excavation, and such other information as may be required by the Town or its Engineer for investigation hereinafter provided for, and shall be submitted to the Township.

P. Guarantee of Performance. The Applicant will provide the Town with financial guarantee in the amount of \$500 for a single permit, or \$5,000 for unlimited permits in a single year as a guarantee of performance. The guarantee shall be in the form of a Construction Performance Bond or Letter of Credit.

Q. Issuance of Permit.

The Township shall issue such permit after:

1. Completion of plan review and investigation,
2. Payment of all applicable application fees and performance guarantees,
3. Agreement by the applicant to the conditions of time and manner as aforesaid;
4. Agreement in writing by the applicant to pay all actual cost of repairs over and above such estimate, and,
5. Agreement in writing by the applicant to be bound by all of the provisions of this Ordinance.

R. **Protection of the Town and the Public.**

1. **Non-Completion or Abandonment.** Work shall progress expeditiously to completion in accordance with any time limitation placed thereon by the Town so as to avoid unnecessary inconvenience to the public. In the event that work is not performed in accordance therewith, or shall cease or be abandoned without due cause, the Town may, after six (6) hours notice in writing to the holder of the permit of its intention to do so, correct the work, fill the excavation and repair the public property, and the cost thereof shall be paid by the permit holder.
2. **Insurance.** As part of the application, the applicant and any and all subcontractors must have separate Certificate of Insurance for the amounts as delineated herein; and, furnish the Town satisfactory written evidence that the applicant and subcontractors will keep in effect public liability insurance, naming the Town as an additional named insured on such Certificate of Insurance; and, State Statutes referenced shall be the current version cited or its successor statute.
 - a. **General Liability.** Commercial General Liability insurance coverage providing coverage on an “occurrence” rather than on a “claims made” basis, which policy shall include, but not be limited to, coverage for bodily injury, property damage, personal injury, contractual liability (applying to this Agreement), independent contractors, “XC&U” and products completed operations liability (if applicable). Contractor agrees to maintain at all times during the period of this Agreement a total combined general liability policy limit of at least \$1,500,000 per occurrence and aggregate, applying to liability for bodily injury, personal injury and property damage, which total limit may be satisfied by the limit afforded under its commercial general liability policy, or equivalent policy, or by such policy in combination with the limits afforded by an umbrella or excess liability policy (or policies); provided that the coverage afforded under any such policy in combination with the limits afforded by an umbrella or excess liability policy is at least as broad as that afforded by the underlying commercial general liability policy. The policy shall name the Town as an additional named insured.
 - b. **Automobile Liability.** Business automobile liability insurance covering liability for bodily injury and property damage arising out of the ownership, use, maintenance, or operation of all owned, non-owned, and hired automobiles and other motor vehicles utilized by Contractor in connection with its performance under this Agreement. Such policy shall provide total liability limits for combined bodily injury and/or property damage in the amount of at least \$1,500,000 per accident, which total limits may be satisfied by the limits afforded under such policy, or by such policy in combination with the limits afforded by an umbrella or excess liability policy(is); provided that the coverage afforded under any such umbrella or excess liability policy(is) shall be at least as broad with respect to such business automobile liability insurance at that afforded by the underlying policy. Unless included within the scope of Contractor’s commercial general liability policy, such business automobile liability policy shall also include coverage for motor vehicle liability assumed under contract. The policy shall name the Town as an additional named insured.
 - c. **Workers’ Compensation.** Workers’ compensation insurance in compliance with all applicable statutes including an all-states or universal endorsement where

applicable. Such policy shall include employer's liability coverage in an amount of no less than \$1,500,000. If Contractor is not required by statute to carry workers' compensation insurance, Contractor agrees: (1) to provide Town with evidence documenting the specific provision under Minn. Stat. § 176.041 which excludes Contractor from the requirement of obtaining workers' compensation insurance; (2) to provide prior notice to the Town of any change in Contractor's exemption status under Minn. Stat. § 176.041; and (3) to defend, hold harmless, and indemnify Town from and against any and all claims and losses brought by Contractor or any subcontractor or other person claiming through Contractor for workers' compensation or employers' liability benefits for damages arising out of any injury or illness resulting from performance of work under this agreement. If any such change requires Contractor to obtain workers' compensation insurance, Contractor agrees to promptly provide Town with evidence of such insurance coverage.

3. **Indemnification.** Before issuance of a permit, the applicant shall, in writing, agree to indemnify and hold the Town harmless from any liability for injury or damage arising out of the action of the applicant in performance of the work, or any expense whatsoever incurred by the Town incident to a claim or action brought or commenced by any person arising therefrom.

S. **Street, Right Of Way, or Public Property Patching And Restoration.**

1. **Timing.** The work to be done under the right of way work permit, and the patching and restoration of the right of way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonable or unreasonable.
2. **Patch and Restoration.** Permittee shall patch its own work. The Town may choose either to have the permittee restore the right of way or to restore the right of way itself.
 - A. **Town Restoration.** If the Town restores the right of way, permittee shall pay the costs thereof within thirty (30) days of billing. If following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the Town, within thirty (30) days of billing, all costs associated with having to correct the defective work.
 - B. **Permittee Restoration.** If the permittee restores the right of way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minnesota Rules 7819.3000.
 - C. **Degradation Fee in Lieu of Restoration.** In lieu of right of way restoration, a right of way user may elect to pay a degradation fee. However, the right of way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.
 - D. **Standards.** The permittee shall perform patching and restoration according to the standards and with the materials specified by the Town and shall comply with Minnesota Rule 7819.1100.
 - E. **Correction Order.** Upon discovery of a violation of this ordinance, the Board may issue a correction order to the violator ordering the person to correct the violation by a certain time. If the violator fails to comply with the correction order by the time indicated in the

order, the Board may provide for the correction of the violation. Issuance of a correction order does not preclude imposition of the penalty set forth in this ordinance.

- F. **Immediate Correction.** If the Board determines that the violation creates an immediate threat to public safety, the Board will make a good faith effort to notify the violator to immediately correct the situation. If the Board is not able to promptly reach the violator, or if the violator fails to immediately correct the situation upon notification, the Board will provide for the correction of the violation.
- G. **Cost of Correction.** The cost of correcting a violation shall be the responsibility of the violator. If the Board provides for the correction of the violation, all expenses incurred, including reasonable attorney's fees, shall be billed to the violator. If the bill is not paid by the due date, the Board may exercise any lawful options available to it to collect the amount due, including certifying such unreimbursed costs to the County Auditor for payment with the owner's property taxes pursuant to Minn. Stat. § 366.012 or other relevant statute.
- H. **Penalty.** Any person who violates this ordinance shall be guilty of a misdemeanor and subject to the penalties for such as provided in State law. Each day of existence of such violation shall constitute a separate offense. If convicted, the person may be assessed costs of prosecution as allowed by Minnesota Statutes section 366.01, subdivision 10.
- I. **Duty to Correct Defects.** The permittee shall correct defects in patching or restoration performed by permittee or its agents. Permittee upon notification from the Township, must correct all restoration work to the extent necessary, using the method required by the Town. Said work shall be completed within five (5) calendar days of the receipt of the notice from the Township, not including days during which work cannot be done because of circumstances constituting *force majeure* or days when work is prohibited as unseasonable or unreasonable.
- J. **Failure to Restore.** If the permittee fails to restore the right of way in the manner and to the condition required by the Town, or fails to satisfactorily and timely complete all restoration required by the Town, the Town at its option may do such work. In that event the escrow money deposited with the Town at the time of permit application will be used to pay for the work. If the cost of the restoration work exceeds the escrow balance the permittee shall pay to the Town, within thirty (30) days of billing, the cost of restoring the right of way. If the permittee fails to pay as required, the Town may exercise its rights under the construction performance bond, letter of credit, or escrow deposit.
- K. **Cost Adjustment.** Within sixty days following completion of such permanent repairs, the Township shall determine and compare the actual costs of repairs with the estimated costs paid to the Town pursuant to Subdivision 3 of this Section, furnish to the permit holder an itemized statement thereof, and claim additional payment from, or make refund (without interest) to the permit holder, as the case may be.
- L. **Alternate Method of Charging.** In lieu of the above provisions relating to cost and cost adjustment for street openings, the Township may charge on the basis of surface square feet removed, excavated cubic feet, or a combination of surface square feet and excavated cubic feet, on an established unit price uniformly charged.

SECTION 7: MINNESOTA SPECIAL FARM PRODUCTS PERMIT

Section 700. Definition.

Pursuant to Minnesota Statute 169.865 Special Farm Products Permits, a Special Farm Products Permit is available for use on approved roads within Lynden Township only. This permit application is available on the township website and upon approval by the Township road manager, allows persons hauling raw or unprocessed agricultural products to haul up to 90,000 pounds gross vehicle weight on six (6) or more axles and up to 97,000 pounds gross vehicle weight on seven (7) or more axles. Currently, the gross weight limit for vehicles operating without an overweight permit is 80,000 pounds.

Section 701. Compliance, Route Inspection and Damage Responsibility.

The applicants route must first be inspected by Lynden Townships Road Engineer and will be inspected periodically to ensure the integrity of the road. Any damages the Engineer reports will be the responsibility of the permit holder to repair to both the Engineer's and Township's satisfaction, as well as the Townships specifications. This permit is valid only on the route approved. Vehicles operating under this permit are required to comply with individual and group axel weight limits and gross weight vehicle limits set by the permit or as limited by MN law. All the provisions of *Minnesota Statute 169.865* Special Farm Products Permits or its successor statutes are hereby incorporated into this Ordinance by reference.

Section 702. Permit Fee.

Lynden Township's annual permit fee is \$100 for permitted vehicles plus the cost of the Township Engineer reviewing roads delineated by the permit.

SECTION 8: ENFORCEMENT PROCEDURES

Section 800. Violations.

Any owner, person, firm, or corporation who violates any of the provisions of this Ordinance, or who fails, neglects or refuses to comply with the provisions of this Ordinance, including violations of conditions and safeguards established in connection with the granting of variances and conditional and interim use permits or fails to comply with restoration orders, or who knowingly makes any false statement verbally or in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor. It shall be the responsibility of both the property owner and any owner, person, firm, or corporation performing any work in the township right-of-way that it is in compliance with this ordinance. Upon conviction thereof, violator(s) shall be punished by a fine not to exceed \$1,000 or by imprisonment not to exceed ninety (90) days or both. Each day that a violation continues shall constitute a separate offense.

Section 801. Remedies.

In the event of a violation or a threatened violation of this Ordinance, the Board, in addition to other remedies, may institute appropriate civil actions or proceedings to prevent, prosecute, restore, restrain, correct or abate such violations or threatened violations, including but not limited to *Lynden Township Ordinance No. 10, Administrative Enforcement of Ordinance Regulations*, or its successor ordinance.

The Administrative enforcement procedures established within *Lynden Township Ordinance 10* provide Lynden Township with an informal, cost-effective and more efficient alternative to criminal prosecution or civil litigation for certain violations of Township Ordinances. Lynden Township retains the right, at its sole discretion, to enforce provisions of its Ordinances by bringing criminal charges or commencing civil litigation in any case where the Township determines it is appropriate or necessary.

SECTION 9: EFFECTIVE DATE.

This Ordinance shall take effect upon its passage and publication according to law.

ADOPTED by the Town Board of Lynden Township, Stearns County, Minnesota this ____ day of _____, 2018.

TOWNSHIP OF LYNDEN

Town Board Chair

Township Clerk

Amended by the Town Board of Lynden Township, Stearns County, Minnesota this 1st day of April, 2019.

TOWNSHIP OF LYNDEN

Town Board Chair

Township Clerk

Amended by the Town Board of Lynden Township, Stearns County, Minnesota this 7th day of March, 2022 and this 3rd day of October, 2022

TOWNSHIP OF LYNDEN

Town Board Chair

Township Clerk