

**LYNDEN TOWNSHIP
ORDINANCE #7
LAND USE AND ZONING**

Including 8-7-2023 Amendments

Adopted August, 2023

Drafted By:

Lynden Township

21367 County Road 44

Clearwater MN 55320

Including amendments by:

Ord #2013-1 – August 5, 2013

March 27, 2017

July 2, 2018

**LYNDEN TOWNSHIP
LAND USE AND ZONING ORDINANCE #7**

The Lynden Township Board of Supervisors Ordains:

SECTION 1. PURPOSE, AUTHORITY AND JURISDICTION.

1.1 Title.

This Ordinance shall be known, cited, and referred to as the “Lynden Township Land Use and Zoning Ordinance”. When referred to herein, it shall be known as “this Ordinance”.

1.2 Statement of Purpose.

This Ordinance is adopted for the purpose of:

- A. Protecting and promoting public health, safety, welfare and morals.
- B. Promoting and providing for orderly development of agricultural, residential, commercial, industrial, recreational and public areas and land uses.
- C. Preserving agricultural land and animal agriculture.
- D. Conserving natural and scenic areas of the Township.
- E. Conserving natural resources and open space.
- F. Providing official controls to implement the goals and policies included in the Lynden Township Comprehensive Plan and/or the Stearns County Comprehensive Plan.

1.3 Statutory Authorization.

This Ordinance is adopted pursuant to the authorization and policies contained in *Minnesota Statutes, chapter 366; or successor statutes and Minnesota Statutes, chapter 462; or successor statutes*. In the event the provisions of Minnesota Statutes Chapter 462 and Chapter 366 are in conflict or are inconsistent as applied to the terms of this Ordinance, the provisions of Chapter 462 shall prevail.

1.4 Jurisdiction.

This Ordinance shall apply to all areas in Lynden Township, Minnesota:

- A. Except areas within the incorporated limits of any city, however organized, except as provided by law; and
- B. Except as otherwise provided by law.

SECTION 2. GENERAL PROVISIONS.

2.1 Abrogation and Greater Restrictions.

It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

2.2 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.

2.3 Interpretation.

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Township and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

2.4 Compliance.

No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used, for any purpose or in any manner, which is not in conformity with this Ordinance.

SECTION 3. DEFINITIONS.

3.1 Adoption by Reference.

That *Section 3 of Stearns County Ordinance Number 439, or successor ordinance*, is hereby adopted by reference except that “Board or Township Board” shall mean the Lynden Township Board of Supervisors, “Planning Commission” shall mean the Lynden Township Planning Commission and “Board of Adjustment” shall mean the Lynden Township Board.

3.2 Rules of Interpretation. For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

3.2.1 The word “shall” is mandatory and not discretionary; the word “may” is permissive.

3.2.2 The word “person” includes any individual, firm, partnership, corporation, company, association, joint stock association or body politic and includes any officer, trustee, receiver, assignee or other similar representative thereof.

3.2.3 Words used in the present tense shall include the future; and words used in the singular shall include the plural and the plural the singular; words of one gender include the other gender.

3.2.4 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.

3.2.5 Days shall mean calendar days unless otherwise stated.

3.2.6 Words shall be given their common usage if not defined herein.

3.3 Undefined Terms. Technical words and phrases and such others as have acquired a special meaning, or are defined in this ordinance, are construed according to such special meaning or their definition.

Words and phrases not defined in this ordinance are construed according to their plain and ordinary meaning. A word is construed according to the rules of grammar and according to its common and approved usage, as provided for within M.S. § 645.08(1), or its successor statute(s). When the Board's intent is clearly discernible from the ordinance's plain and unambiguous language, the language shall be interpreted according to its plain meaning.

SECTION 4. ADMINISTRATION.

4.1 Purpose.

The following sections outline the major zoning procedures for implementation of the Zoning Ordinance.

4.2 Planning & Zoning Administrator and Building Official.

The offices of the Planning & Zoning Administrator and Building Official are hereby established, for which the Township Board may appoint such staff as it may deem proper. The term of office of the Planning & Zoning Administrator and Building Official shall be indefinite and shall terminate at the discretion of the Township Board.

4.2.1 Duties. The Planning & Zoning Administrator and Building Official duties shall include but are not limited to:

- A. Enforce and administer the provisions of this Ordinance.
- B. Issue permits and maintain records thereof.
- C. Receive, and forward to the Township Planning Commission, applications for conditional use permits, subdivision plats, and petitions for ordinance amendments, including rezoning.
- D. Receive and forward applications and petitions for matters to come before the Board of Adjustment.
- E. Maintain the township zoning map.
- F. Conduct inspections to determine compliance with the provisions of this Ordinance.
- G. Serve as an ex-officio member of the planning commission.
- H. Collect all fees required by this Ordinance.
- I. File for record with the Stearns County Recorder or Registrar of Titles all documents required to be filed by law.
- J. Perform other duties, matters and responsibilities as the Township Board may assign from time to time or are required by Minnesota law.

4.3 Site Permit Required.

4.3.1 Scope. From and after the effective date of this Ordinance and its amendments, it shall be unlawful to proceed with the construction, placement or enlargement of any building or structure without first obtaining a site permit.

4.3.2 Application. Requests for a site permit shall be filed with the Township Building Official on an official application form. Each application for a permit

shall be accompanied by a site and floor plan drawn to scale showing the dimensions of the lot to be built upon, the 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 building codes.

4.3.3 Issuance of Site Permit. The Planning & Zoning Administrator or the Township Building Official shall issue the site permit only when the plans comply with this Ordinance and other applicable laws, rules, regulations, and ordinances. The Planning & Zoning Administrator or the Township Building Official may deny a permit for the construction of any building upon grounds which, according to the information furnished, is too low for proper drainage, or otherwise deemed unsuitable for building through provisions of this Ordinance.

4.3.4 Normal Maintenance. No site permit shall be required for normal maintenance.

4.3.5 Completion of Work. A construction site permit shall expire and be considered null and void after one (1) year if construction has not begun. If construction has begun within one (1) year of the date of permit issuance, the construction site permit issued by the Township through its Planning Building Official shall be valid for one (1) additional year in order to complete construction. For the purposes of this ordinance, construction shall include the installation of footings, slabs, foundations, posts, walls or other portions of a structure and the excavation for the same. Site preparation, land clearing or the installation of utilities shall not constitute construction.

4.4 Fees.

4.4.1 Base Fee. To defray administrative costs of processing requests for site permits, conditional uses, interim uses, amendments, variances or appeals, a base fee per application shall be paid by all applicants in accordance with the fee schedule adopted by the Township Board.

4.4.2 Other Fees. In order to defray any additional cost of processing applications (site permit, amendment, conditional use, interim use, variance, appeal) for developments, all applicants shall pay the total cost and/or consulting time spent exclusively in producing materials for the applicant's request, and all materials for said request. Fees that are established pursuant to *Section 4.4.2 of this Ordinance* shall be adopted by the Township Board.

- A. "Materials" shall include but are not limited to maps, graphs, charts, drawings, developer's agreement, etc., and all printing or reproduction of same.
- B. "Staff and/or consulting time" shall include any time spent in either researching for or actual production of materials, either by Township staff,

Township legal, engineering, planning consultants, or the Township Attorney.

- C. The hourly rate for “staff and/or consulting time” shall be established and made available to the applicant by the Planning & Zoning Administrator prior to the production of any materials and the applicant shall be given a reasonable estimate of project time and/or material costs.

4.5 Planning Commission.

4.5.1 Establishment of Planning Commission. The Lynden Township Planning Commission, as currently established, is hereby re-established by the Township Board’s adoption of this Ordinance.

4.5.2 Conflict of Interest. Any planning commission member who has a conflict of interest on any issue before the commission shall not be allowed to participate as a commission member on that issue. Any question of whether the particular issue involves a conflict of interest sufficient to disqualify a commission member from acting thereon, shall be decided by majority vote of all commission members present except the member who is being challenged.

4.6 Board of Adjustment and Appeals.

4.6.1 Establishment of the Board of Adjustment and Appeals. The Township Board shall act as the Board of Adjustment and Appeals, referred hereinafter as the “Board of Adjustment”.

4.6.2 Powers and Duties.

- A. The Board of Adjustment and Appeals shall hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of this Ordinance. Actions of the Planning Commission and the Township Board shall not be appealable to the Board of Adjustment. An appeal from any order, requirement, decision or determination of any administrative official relating to this Ordinance shall be taken within fourteen (14) days after receipt of notice of the order, requirement, decision or determination by filing a notice of appeal. The notice of appeal shall be filed with the Township Clerk personally or via certified mail. The appeal shall be in writing and shall specify the grounds thereof.
- B. The Board of Adjustment and Appeals shall hear requests for variances from the literal provisions of this Ordinance in instances where their strict enforcement would cause practical difficulty because of circumstances unique to the individual property under consideration.

- 4.6.3 Application.** An application for a variance shall be made to the Board of Adjustment on forms provided by the Planning & Zoning Administrator by filing such application and paying the filing fee to the Township Clerk. The Township Clerk shall fix a reasonable time and date for the hearing on the application and give notice thereof as required by law.
- 4.6.4 Other Powers.** The Board of Adjustment shall have such other powers and duties as are assigned to it by law.
- 4.6.5 Findings of Fact.** Separate written findings of fact shall be made by the Board of Adjustment for each variance granted or denied and for each appellate decision made.

4.7 Variances.

- 4.7.1 Criteria for Granting Variances.** The following criteria shall be used by the Board of Adjustment when considering a variance application:
- A. The variance shall not allow a use that is prohibited in the zoning district in which the subject property is located.
 - B. The variance must be in harmony with the general purpose and intent of this Ordinance.
 - C. The terms of the variance must be consistent with the township comprehensive plan.
 - D. The landowner must show that the variance is necessary to alleviate practical difficulties resulting from strict application of the ordinance. “Practical difficulty” as used in connection with the granting of a variance means:
 1. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
 2. The plight of the landowner is due to circumstances unique to the property, not created by the landowner or a previous landowner;
 3. The variance, if granted, will not alter the essential character of the locality.

If the variance request meets at a minimum all of the criteria cited above, the variance may be granted. Economic considerations alone shall not constitute a practical difficulty if a reasonable use for the property exists under the terms of this Ordinance. Access to direct sunlight in the case of solar energy systems shall constitute grounds for granting a variance.

4.7.2 Procedure.

- A. The person applying for a variance shall complete and submit to the Planning & Zoning Administrator a variance application which shall include a statement of the practical difficulty or difficulties claimed, along with the filing fee.

- B. The Planning & Zoning Administrator shall review the application within 15 days for completeness before referring the application along with all related information to the Planning Commission which shall act in an advisory role to the Board of Adjustment. Decisions of the Planning Commission shall be advisory to the Board of Adjustment.
- C. The Planning Commission may recommend the imposing of conditions on the granting of variances to ensure compliance, to protect adjacent properties, and the public interest, including any conditions it considers necessary to protect the public health, safety and welfare. The Board of Adjustment may place additional conditions upon the issuance of a variance to insure compliance, to protect adjacent properties, and the public interest, including any conditions it considers necessary to protect the public health, safety and welfare.
- D. The Planning Commission shall make a finding of facts and recommend to the Board of Adjustment such actions or conditions relating to the request. Such findings shall be entered in and made a part of the written record of the Board of Adjustment.
- E. The Board of Adjustment shall hold a public hearing on the request for variance. Notice of the time, place and purpose of the public hearing shall be according to *Minnesota Statutes, section 462.354 Subd. 2; or successor statute.*
- F. The applicant(s) or their representative shall appear before the Board of Adjustment at the public hearing in order to present evidence concerning the proposed variance.
- G. Upon receiving the report and recommendation of the Planning Commission, the Board of Adjustment shall:
 - 1. Approve or deny the request as recommended by the Planning Commission; or
 - 2. Concur or not concur with the Planning Commission with regard to modifications, alterations or conditions that differ from those recommended by the Planning Commission. Such modifications, alterations or conditions that differ from the Planning Commission shall be in writing and made part of the Board of Adjustment's records; or
 - 3. Refer the recommendation back to the Planning Commission for further consideration. This procedure shall be followed only one time for each variance request. If the request is referred back to the Planning Commission, the applicant shall be notified of the extension of time for action on the request.
 - 4. The Board of Adjustment may require additional information from the applicant. Failure to provide the information requested may adversely affect the granting of such variance as requested.
- H. Approval of any variance or appeal shall require passage by a two-thirds (2/3) vote of the full Board of Adjustment. When a vote on a resolution or properly made motion to approve a request fails for any reason, the failure

shall constitute a denial of the request provided that those voting against the motion state on the record the reasons why they oppose the request, in accordance with MN Statute §15.99.¹ The Planning & Zoning Administrator or Township Clerk shall give the applicant written notice of the Board of Adjustment's action. The written notice shall include the findings of fact.

- I. The decisions of the Board of Adjustment shall be subject to judicial review as provided under *MN Statute § 462.371, or its successor statute.*
- K. No resubmission of a denied variance application shall be allowed for six (6) months without new evidence related to the variance.
- L. Granted variances become void if the applicant does not proceed substantially on the work within one (1) year. To proceed substantially means to make visible improvement to the property. One or more extensions of not more than one (1) year each may be granted by the Board of Adjustment for good cause, as defined in §4.3.5, *supra*.
- M. An application for variance will not be accepted from anyone who is not an owner of land for which the application is made.
- N. A violation of any condition set forth in a variance shall be a violation of both the variance and this Ordinance. Failure to correct a violation within thirty (30) days of written notice from the Planning & Zoning Administrator or Township Clerk shall be grounds to revoke a variance through the following procedure:
 - 1. The Planning & Zoning Administrator or Township Clerk shall give written notice to the variance holder, advising that the variance may be revoked upon the conclusion of a public hearing. The written notice shall also contain the nature of the violation and the facts that support the conclusions that a violation exists.
 - 2. The Township Board shall hold a public hearing in the same manner as that required for a new variance.
 - 3. Within thirty (30) days of the closing of the public hearing, the Township Board shall:
 - a. revoke the variance, or,
 - b. make a finding that a violation does not exist, or,
 - c. modify the conditions of the variance so that a violation no longer exists.

¹ M.S. § 15.99 (2016) Subd. 2. **Deadline for response.** (a) Except as otherwise provided in this section, section 462.358, subdivision 3b, or 473.175, or chapter 505, and notwithstanding any other law to the contrary, an agency must approve or deny within 60 days a written request relating to zoning, septic systems, watershed district review, soil and water conservation district review, or expansion of the metropolitan urban service area for a permit, license, or other governmental approval of an action. Failure of an agency to deny a request within 60 days is approval of the request. If an agency denies the request, it must state in writing the reasons for the denial at the time that it denies the request.

(b) When a vote on a resolution or properly made motion to approve a request fails for any reason, the failure shall constitute a denial of the request provided that those voting against the motion state on the record the reasons why they oppose the request. A denial of a request because of a failure to approve a resolution or motion does not preclude an immediate submission of a same or similar request.

4. The Town Clerk or Planning & Zoning Administrator shall give written notice of the Township Board's decision to the variance holder.
- O. A certified copy of all variances that are granted by the Board of Adjustment shall be filed at the office of the Stearns County Recorder.

4.8 Conditional Use Permits.

4.8.1 Criteria for Granting Conditional Use Permits. In granting a Conditional Use Permit ("CUP"), the Planning Commission and Township Board shall consider the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding lands and the effect on water bodies. Among other things, the Planning Commission and Township Board shall make the following findings where applicable:

- A. The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
- B. The use will be sufficiently compatible or separated by distance or screening from adjacent agriculturally or residentially zoned or used land so that existing property will not be depreciated in value and there will be no deterrence to development of vacant land.
- C. The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties.
- D. The use in the opinion of the Planning Commission and Township Board is reasonably related to the existing land use.
- E. The use is consistent with the purpose of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
- F. The use is not in conflict with the Land Use Plan of the Township and County.
- G. The use will not cause traffic hazards or congestion.

4.8.2 Conditions of Approval. In permitting a new conditional use permit or the amendment of an existing conditional use permit, the decisions of the Planning Commission shall be advisory to the Town Board. The Township Board may impose, in addition to these standards and requirements specified by this Ordinance, additional conditions which the Planning Commission recommends, or its own additional or independent conditions that the Township Board considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to the following:

- A. Increasing the required lot size or yard dimension;
- B. Limiting the height, size or location of buildings;
- C. Controlling the location and number of vehicle access points;
- D. Increasing the street width;
- E. Increasing the number of required off-street parking spaces;

- F. Limiting the number, size, location or lighting of signs;
- G. Requiring berming, fencing, screening, landscaping or other facilities to protect adjacent or nearby property;
- H. Designation of open space; and
- I. Annual review if deemed appropriate by the Township Board.

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 conditional use permit was being considered. The Planning & Zoning Administrator shall maintain a record of all conditional use permits issued, including information on the use, location, and conditions imposed by the Planning Commission and Township Board, time limits, review dates, and such other information as may be appropriate.

4.8.3 Procedure

- A. An application for a conditional use permit will not be accepted from anyone who is not an owner of land for which the application is made.
- B. The person applying for a conditional use permit shall complete and submit to the Planning & Zoning Administrator a conditional use permit application form and filing fee.
- C. The Planning & Zoning Administrator shall review the application within 15 days for completeness before referring the application to the Planning Commission.
- D. The applicant(s) or their representative shall appear before the Planning Commission in order to present evidence concerning the proposed conditional use.
- E. If the Planning Commission recommends granting the conditional use permit, it may recommend conditions it considers necessary to protect the public health, safety and welfare.
- F. A conditional use permit application to amend an existing conditional use permit shall be administered in the same manner as that required for a new conditional use permit.
- G. The Planning Commission shall forward its recommendation to either deny or approve the Conditional Use Permit to the Township Board, including any conditions it considers necessary to protect the public health, safety and welfare.
- H. The Township Board shall hold a public hearing on the Conditional Use Permit proposal. Notice of the public hearing shall be as provided by *Minnesota Statute, section 462.3595*; or successor statute. The Township Board may require additional information from the applicant. Failure to provide the information requested may adversely affect the granting of such conditional use permit as requested. The Township Board will take final action on the request.
- I. No application for a denied conditional use permit shall be resubmitted for a period of six (6) months from the date of any order of denial.

- J. All Conditional Use Permits that are approved by the Township Board shall be recorded at the office of the Stearns County Recorder.

4.8.4 Expiration of Conditional Use Permit

Conditional use permits that are approved shall become void if the applicant does not proceed substantially on the work within one (1) year. To proceed substantially means to make visible improvements to the property. One or more extensions for not more than one (1) year each may be granted by the Township Board for good cause, as defined in §4.3.5, *supra*. Conditional use permits shall also expire if the conditional use is discontinued for a period of 365 consecutive days or more.

4.8.5 Revocation of Conditional Use Permit

A violation of any condition set forth in a conditional use permit shall be a violation of both the permit and this Ordinance. Failure to correct a violation within thirty (30) days of written notice from the Planning & Zoning Administrator or Township Clerk shall be grounds to revoke a conditional use permit through the following procedure:

- A. The Planning & Zoning Administrator or Township Clerk shall give written notice to the permit holder, advising that the conditional use permit may be revoked upon the conclusion of a public hearing. The written notice shall also contain the nature of the violation, the facts that support the conclusions that a violation exists, and the date, time and place of the public hearing.
- B. The Township Board shall hold a public hearing in the same manner as that required for a new conditional use permit.
- C. Within thirty (30) days of the closing of the public hearing, the Township Board shall:
 - 1) revoke the conditional use permit, or,
 - 2) make a finding that a violation does not exist, or,
 - 3) modify the conditions of the conditional use permit so that a violation no longer exists.
- D. The Planning & Zoning Administrator or Township Clerk shall give written notice of the Township Board's decision to the permit holder.

4.8.6 Reapplication

No application for the same or revoked conditional use permit for a particular use on a particular parcel of land shall be resubmitted for a period of twelve (12) months from the date of the decision of the previous application or revocation unless there has been a change in circumstances as it relates to the request. The Town Board shall determine whether there has been a change in circumstances as it relates to the request.

4.8.7 Amended Conditional Use Permits

Amended conditional use permits shall be requests for changes in conditions of the existing permit or modifications of any approved plan. An amended

conditional use permit shall be administered in the same manner as that required for a new conditional use permit.

4.8.8 Conditional Use Permit Review

Conditional use permits shall be on an annual basis by the Planning & Zoning Administrator and Planning & Zoning Commission Chair. Any issues with the conditional use permits shall be brought to the attention of the Planning Commission.

4.9 Interim Use Permits.

4.9.1 Criteria for Granting Interim Use Permits.

In granting an Interim Use Permit, decisions of the Planning Commission shall be advisory to the Town Board. The Planning Commission and Township Board shall consider the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding lands and the effect on water bodies. Among other things, the Planning Commission and Township Board shall make the following findings where applicable:

- A. The proposed use meets the applicable standards set forth for conditional use permits;
- B. The proposed use will terminate upon a date or event that can be identified with certainty;
- C. The proposed 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 proposed use will be subject to, by agreement with the owner, any conditions that the Township Board deems appropriate for permission of the proposed use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit; and
- E. The Township Board may require additional information from the applicant. Failure to provide the information requested may adversely affect the granting of such interim use permit as requested.
- F. The interim use will be subject to review by the Township Board upon change of ownership.

4.9.2 Termination. An interim use permit shall terminate upon the occurrence of any of the following events, whichever comes first:

- A. The date or event stated in the permit; or
- B. A violation of the conditions under which the permit was issued; or
- C. The use has been discontinued for a minimum of one (1) year.

If it is believed that an interim use has terminated, the Township Board shall take action to revoke the permit, including notification to the property owner of the Township's intent to revoke the permit.

4.9.3 Conditions of Approval. In permitting a new interim use or the amendment of an existing use, the Township Board may impose, in addition to these standards and requirements expressly specified by this Ordinance, additional conditions which the Planning Commission recommends or Township Board considers necessary to insure compliance, to protect adjacent properties, and the public interest, including any conditions it considers necessary to protect the public health, safety and welfare, and protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

- A. Increasing the required lot size or yard dimension;
- B. Limiting the height, size or location of buildings;
- C. Controlling the location and number of vehicle access points;
- D. Increasing the street width;
- E. Increasing the number of required off-street parking spaces;
- F. Limiting the number, size, location or lighting of signs;
- G. Requiring berming, fencing, screening, landscaping or other facilities to protect adjacent or nearby property; and
- H. Designation of open space; and
- I. Annual review if deemed appropriate by the Township Board.

Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the interim use permit issued, shall require an amended interim use permit and all procedures shall apply as if a new interim use permit was being issued. The Planning & Zoning Administrator shall maintain a record of all interim use permits issued including information on the use, location, and conditions imposed by the Township Board, time limits, review dates, and such other information as may be appropriate.

4.9.4 Procedure.

- A. Applications for interim use permits will not be accepted from anyone who is not an owner of land for which the application is made.
- B. The person applying for an interim use permit shall complete and submit to the Planning & Zoning Administrator or Township Clerk an interim use application form and filing fee.
- C. The Planning & Zoning Administrator shall review the application within 15 days for completeness before referring the application to the Planning Commission.
- D. The applicant(s) or their representative shall appear before the Planning Commission in order to present evidence concerning the proposed interim use.
- E. If the Planning Commission recommends granting the interim use permit, it may recommend conditions it considers necessary to insure compliance, to protect adjacent properties and the public interest, including any conditions it considers necessary to protect the public health, safety and welfare.

- F. The Township Board shall hold a public hearing on the proposal. Notice of the public hearing shall be as provided by *Minnesota Statute, section 462.3595; or successor statute*. The Planning Commission shall forward its recommendation to either deny or approve the Interim Use Permit to the Township Board. The Township Board shall take final action on the request.
- G. An amended interim use permit application shall be administered in the same manner as required for a new interim use permit. The fee shall be set by separate action of the Township Board. An amended interim use permit shall include requests for changes in conditions and as otherwise described in this Ordinance.
- H. No application for a denied interim use permit shall be resubmitted for a period of six (6) months from the date of said order of denial.
- I. Interim use permits that are approved shall become void if applicant does not proceed substantially on the work within one (1) year. To proceed substantially means to make visible improvement to the property. One or more extensions for not more than one (1) year each may be granted by the Township Board for good cause, as defined in §4.3.5, *supra*.
- J. If the land use does not conform to the conditions of the permit, the interim use permit may be revoked in the same manner as provided for in § 4.8.3 K of this Ordinance.
- K. All Interim Use Permits that are approved by the Township Board shall be recorded at the office of the Stearns County Recorder.

4.9.5 Expiration of Interim Use Permit

Interim use permits that are approved shall become void if the applicant does not proceed substantially on the work within one (1) year. To proceed substantially means to make visible improvements to the property. One or more extensions for not more than one (1) year each may be granted by the Township Board for good cause, as defined in §4.3.5, *supra*. Interim use permits shall also expire if the interim use is discontinued for a period of 365 consecutive days or more.

4.9.6 Revocation of Interim Use Permit

A violation of any condition set forth in an interim use permit shall be a violation of both the permit and this Ordinance. Failure to correct a violation within thirty (30) days of written notice from the Planning & Zoning Administrator or Township Clerk shall be grounds to revoke an interim use permit through the following procedure:

- A. The Planning & Zoning Administrator or Township Clerk shall give written notice to the permit holder, advising that the interim use permit may be revoked upon the conclusion of a public hearing. The written notice shall also contain the nature of the violation, the facts that support the conclusions that a violation exists, and the date, time and place of the public hearing.

- B. The Township Board shall hold a public hearing in the same manner as that required for a new interim use permit.
- C. Within thirty (30) days of the closing of the public hearing, the Township Board shall:
 - 4) revoke the interim use permit, or,
 - 5) make a finding that a violation does not exist, or,
 - 6) modify the conditions of the interim use permit so that a violation no longer exists.
- D. The Planning & Zoning Administrator or Township Clerk shall give written notice of the Township Board's decision to the permit holder.

4.9.7 Reapplication

No application for the same or revoked interim use permit for a particular use on a particular parcel of land shall be resubmitted for a period of twelve (12) months from the date of the decision of the previous application or revocation unless there has been a change in circumstances as it relates to the request. The Town Board shall determine whether there has been a change in circumstances as it relates to the request.

4.9.8 Amended interim Use Permits

Amended interim use permits shall be requests for changes in conditions of the existing permit or modifications of any approved plan. An amended interim use permit shall be administered in the same manner as that required for a new interim use permit.

4.10 Zoning Ordinance Amendments.

4.10.1 Public Hearings.

- A. Public hearings regarding any amendment to the zoning map shall be held by the Stearns County Planning Commission. Upon completion of the public hearing, the Stearns County Planning Commission shall forward the application for final action together with their findings and recommendation of either approval or non-approval to the Stearns County Board of Commissioners.
- B. Public hearings regarding any amendment to the text of this Ordinance shall be held by the Township Board. Amendments shall be consistent with *Stearns County Ordinance Number 439, or successor ordinance*, and the Stearns County Comprehensive Plan.

4.10.2 Application for Change of Text.

An application to change the wording of this Ordinance shall be consistent with, as restrictive or more restrictive than the language contained in *Stearns County Ordinance Number 439, or successor ordinance*, and shall include:

- A. Reason for the requested change;
- B. Statement regarding compatibility with the County Comprehensive Plan and County Zoning Ordinance;

- C. Text portion of the existing language to be amended;
- D. Proposed amended text; and,
- E. Notice to the Stearns County Environmental Services Department of all proposed text amendments.

4.10.3 Application for Change in District Boundary (Rezoning).

Changes to District Boundaries may only be enacted by the Stearns County Board of Commissioners and only upon review and recommendation by the Township Board. The Planning & Zoning Administrator shall review Rezoning Applications for completeness before submitting the application for recommendation to the Township Board by the Planning Commission. Any changes to the District Boundaries enacted by the Stearns County Board of Commissioners shall be considered to be enacted by reference as an official change to the Township Zoning Map.

4.10.4 Notice of Hearing.

Notice of hearing for all amendments to the text of this Ordinance shall be given in accordance with *Minnesota Statutes, chapter 462, or successor statutes.*

4.11 Subsurface Sewage Treatment System Permit.

In areas without public sewer facilities, no construction site permit, conditional use permit, interim use permit or provisional use permit for any use requiring on site sewage treatment shall be issued until a subsurface sewage treatment system permit has first been issued. Subsurface Sewage Treatment Permits are issued through the Stearns County Environmental Services Department.

4.12 County Driveway Access Permit.

Accesses onto County roads shall require an access permit from the County Public Works Department. This permit shall be issued prior to the issuance of any construction site permit, conditional use permit, interim use permit or provisional use permit when the proposed use involves the installation of a new or additional access onto a County Road. The Public Works Director shall determine the appropriate location, size and design of such accesses and may limit the number of accesses in the interest of public safety and efficient traffic flow.

4.13 Township Driveway Access. Accesses onto any township road shall require a permit as per the Township Road Right-of-Way Ordinance #12 from the Planning & Zoning Administrator, Township Building Official or a Township Supervisor. In Lynden Township, 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. 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.

4.14 Feedlot Permit.

No person shall operate a new animal feedlot, or modify or expand an existing animal feedlot without first securing either a Feedlot Construction Site Permit or Conditional Use Permit (“CUP”) for such Animal Feedlot from the Stearns County Environmental Services Department. A manure storage facility shall be considered a part of any animal feedlot.

4.15 Sign, Off-Premise (Billboard) Permits.

A permit shall be required whenever an off-premise sign (i.e., billboard) is erected, altered or relocated. Specific requirements, application procedures and exceptions are set forth in § 7.24.7 of this Ordinance.

4.16 Essential Service, Transmission Service, and Utility Substation Permits.

Specific requirements, application procedures and exceptions are set forth in *Section 7.11 of Stearns County Ordinance 439, or successor Ordinance.*

4.17 Compliance.

4.17.1 Construction.

No structure shall be erected, moved or altered unless in conformity with the standards set forth in this Ordinance.

4.17.2 Use.

No structure, driveway or approach access, or land shall be used or occupied for any purpose or in any manner contrary to the approved plans, permits, and applications that is not in conformity with the standards set forth in this Ordinance or the standards in *Stearns County Ordinance 439, or successor Ordinance.*

4.17.3 Compliance with Approved Plans.

Construction and use shall be in accordance with the application, plans, permit, and any applicable variance. Permits, conditional use permits, interim use permits, provisional use permits and certificates of compliance issued on the basis of approved plans and applications authorize only the use and construction set forth in such approved plans and applications and no other use or construction. Any use or construction not in conformance with that authorized shall be deemed a violation of this Ordinance and *Stearns County Ordinance 439, or successor Ordinance.*

4.18 Registration of Provisional Uses.

Registration shall be required with Stearns County for any use listed as a provisional use in the primary zoning districts.

4.19 Abatement Orders.

4.19.1 Abatement Orders.

An abatement order may be issued by the Township Board when the Township Board refuses to issue a permit or when the Board refuses to issue

a conditional or interim use permit or when the Board of Adjustment refuses to grant a variance for a project that was started or completed prior to consideration of the application. An abatement order may also be issued by the Township Board to correct or abate any violation of the provisions of this Ordinance. The abatement order shall be delivered personally or by certified mail to the owner of record of the property on which the violation exists and shall specify the following:

- A. A date by which the landowner shall complete abatement and obtain a letter of satisfaction from the Township Board or Building Official with a copy sent to the Stearns County Environmental Services Department.
- B. The action on the part of the property owner required to eliminate or resolve the violation.
- C. Advise the landowner that the failure to comply with the abatement order is a violation of this Ordinance.
- D. Advise the property owner of their right to appeal the abatement order to the Board of Adjustment within ten (10) business days of receipt of the abatement order.

4.20 Intergovernmental Communication.

To facilitate the joint Township/County permitting process, the following, when issued or granted by the Township, shall be submitted to Stearns County Environmental Services:

- A. A copy of all construction site permits.
- B. A copy of all interim use permits.
- C. A copy of all conditional use permits.
- D. A copy of all variances.
- E. A copy of all off-premise sign permits.
- F. A copy of all amendments to the text of this Ordinance.
- G. A copy of all public hearing notices regarding variances, conditional use permits and interim uses a minimum of seven (7) days prior to the public hearing.

4.21 Appeal of Township Zoning Decisions.

All decisions of the Town Board or the Board of Adjustment on any application for a variance, interim use permit, conditional use permit, site and building plan, zoning ordinance text amendment, rezoning, or any other application decided by such bodies may be appealed to the Stearns County District Court, but only if such appeal is served on the Township Chair or Township Clerk and filed in Stearns County District Court within thirty days of the date such decision by the Town Board or Board of Adjustment was made. No appeal served or filed after such date shall be heard by the Stearns County District Court.

SECTION 5. NONCONFORMITIES.

That *Section 5 of Stearns County Ordinance Number 439, or successor Ordinance*, is hereby adopted by reference.

SECTION 6. PERFORMANCE STANDARDS.

That *Section 6 of Stearns County Ordinance Number 439, or successor Ordinance*, is hereby adopted by reference, except for the following:

6.7 Animal Feedlot Standards.

That Section 6.7.6 shall be amended to read as follows:

6.7.6 Animal Unity Density (AUD) Requirements.

- B. The following Animal density regulations shall apply in the Agricultural zoning districts in which a parcel is less than ten (10) acres, except as provided for in *Sections 6.7.2B or 5.1.4E(3)*.
 - (1) Parcels with at least one (1) acre shall be allowed up to 0.3 animal units of chickens only.
 - (a) Chickens must be provided with a shelter and an open lot area.
 - (b) Free range or pastured poultry are considered feedlot.
 - (c) Roosters are prohibited.
 - (2) On parcels of at least two (2) acres, but less than five (5) acres, less than one (1) animal unit is permitted and shall only consist of chickens. Roosters are prohibited. On parcels of at least 5 acres, two (2) animal units may be permitted for the first five (5) acres and one (1) additional animal unit may be permitted for each additional two (2) acres to a maximum of four (4) animal units, which may consist of animal types other than chickens.

Ag Zoning District Acres / Animal Unit Density (AUD)									
Acres	1-1.99	2 – 2.99	3 – 4.99	5 – 6.99	7 – 8.99	9 – 9.99			
AUD	0.3 (only chickens)	<1 (only chickens)	<1 (only chickens)	2	3	4			

- C. The following animal density regulations shall apply in the R-10 zoning district, except as provided for in *Sections 6.7.2 B or 5.1.4 E (2) of Ordinance 439*:
 - (1) Parcels with at least one (1) acre shall be allowed up to eighteen (18) head of chickens.
 - (a) Chickens must be provided with a shelter and an open lot area.
 - (b) Free range or pastured poultry are considered feedlot.
 - (c) Roosters are prohibited.
 - (2) On parcels of at least two (2) acres but less than five (5) acres, less than one (1) animal unit may be permitted and shall only consist of chickens. Roosters are prohibited.
 - (3) On parcels of at least five (5) acres, two (2) animal units may be permitted for the first five (5) acres and one (1) additional animal unit may be permitted for each additional two (2) acres to a maximum of six (6) animal units when the parcel is located in an R-10 zoning district.

R-10 Zoning District								
Acres / Animal Unit Density (AUD)								
Acres	1-1.99	2 – 4.99	5 – 6.99	7 – 8.99	9 – 10.99	11 – 12.99	13 or >	
AUD	Chickens	<1 (only chickens)	2	3	4	5	6	

- D. The following shall apply in the R-5 or R-1 zoning districts in which a parcel is at least one (1) acre:
- (1) In the R-5 zoning district, parcels with at least one (1) acre shall be allowed up to fifteen (15) head of chickens. An additional one (1) head of chicken will be allowed with each additional quarter (0.25) acre, up to and including five (5) acres, for a maximum of thirty-one (31) head of chickens.
 - (2) In the R-1 zoning district, parcels with at least one (1) acre shall be allowed up to twelve (12) head of chickens.
 - (3) Landowners with more than one parcel within the R-5 or R-1 districts shall only be allowed chickens on one (1) parcel.
 - (4) The setback requirements of *Section 9 of Ordinance 439* must be met.
 - (5) Chickens must be provided with a shelter and an open lot area.
 - (6) No free range or pasture chickens allowed.
 - (7) Roosters are prohibited.

6.32 Kennels, Commercial.

That Section 6.34.1 B shall add numbers 26-30 to read as follows:

26. The Township shall be responsible for issuing, inspecting, and compliance of any CUP issued regarding a commercial kennel for breeding, boarding, or any other related kennel operation.
27. Dogs must be confined or under the supervision of the kennel operator or staff at all times.
28. All dogs must be kept in an indoor primary enclosure at night from 10:00 PM to 6:00 AM.
29. Outdoor exercise areas of commercial kennels must be fenced. Fencing shall consist of durable materials, with a minimum height of no less than six (6) feet and must deter a dog from escaping over, under, or through the fence.
30. MN Statutes Chapter 347 or its successor statutes is hereby incorporated in its entirety as part of this ordinance by reference.

SECTION 7. GENERAL DEVELOPMENT STANDARDS.

That *Section 7 of Stearns County Ordinance Number 439; or successor Ordinance*, is hereby adopted by reference, except for the following:

That Section 7.23 shall be amended to read as follows:

7.23 Residential Dwelling Unit.

In all districts where single or multi-family dwellings are permitted, the following standards shall apply, except for temporary dwellings permitted under *Section 7.29 of this Ordinance*:

- 7.23.1 Any manufactured home to be used as a residential dwelling unit shall bear a Seal of Compliance issued by the State of Minnesota.
- 7.23.2 No accessory building or recreational vehicle shall be used at any time as a dwelling unit, unless otherwise provided in this Ordinance.
- 7.23.3 No manufactured home shall be moved into the unincorporated areas of Stearns County that does not meet the *Manufactured Home Building Code as defined in Minnesota Statutes, § 327.31, subdivision 3; or successor statutes.*
- 7.23.4 The minimum size of all single family dwellings shall be twenty (20) feet in width and twenty (20) feet in length except for a Temporary Single Family Residential Dwelling Unit as provided for in *Section 6.56 of this Ordinance.*

7.25 Sign Regulations.

That Section 7.25.2 General Standards shall add Letters L and M as follows:

- L. Any sign with changing text may scroll into place but must remain static for eight (8) seconds.
- M. Digital signs are permitted but the advertisement must remain static for eight (8) seconds.

That Section 7.25.5 (Signs permitted in Commercial and Industrial Districts) C shall read as follows:

- C. No sign shall extend in height above the parapet wall of any principal building, except that one (1) free standing sign, not exceeding sixty-four (64) square feet, shall be allowed and cannot exceed ten (10) feet in height above the average grade.

That Section 7.25.7 A shall read as follows:

- A. Off-premise signs (billboards) may be permitted as a Conditional Use in any industrial district providing the total square footage of both sides of the sign area is not more than six hundred (600) square feet, for signs located along **Interstate 94 (“I-94”)**. On other streets, the total square footage of sign area shall not exceed **thirty-two (32)** square feet per surface with no sign having more than two (2) sign surfaces and a height not to exceed ten feet from above the average ground level.

SECTION 8. GENERAL ZONING DISTRICT RULES OF APPLICATION.

8.1 Establishment of Zoning Districts.

The zoning districts shall apply as designated on the Zoning Map or as defined within this Ordinance. All land under the jurisdiction of this Ordinance shall be designated as lying within one, and only one, primary zoning district. In addition, one or more overlay districts may apply.

PRIMARY DISTRICTS

A-160	Agricultural District A-160
A-80	Agricultural District A-80
A-40	Agricultural District A-40
T-20	Transition District T-20 (Closed)
R-20	Residential District R-20 (Closed)
R-10	Residential District R-10
R-5	Residential District R-5
RT	Rural Townsite
R-1	Residential District R-1
C	Commercial District
I	Industrial District
EE	Educational/Ecclesiastical District
SR	Scenic River District
RMH	Residential Manufactured Home District
UE	Urban Expansion District

OVERLAY DISTRICTS

CD	Conservation Design
AP	Airport

8.2 Official Zoning Map.

The locations and boundaries of the primary districts established by this Ordinance are set forth on the Stearns County zoning maps which are hereby incorporated by reference as though a part of this Ordinance. It shall be the responsibility of the County to maintain and update the zoning maps and any amendments thereto.

8.3 District Regulations.

8.3.1 Application of Standards.

Unless specified otherwise in this Ordinance, when one or more zoning district standards are in conflict, then the more restrictive standard shall apply.

8.3.2 Appeal of District Boundary.

Appeals from any determination of the exact location of district boundary lines shall be heard by the Stearns County Board of Adjustment.

8.3.3 Closed Districts.

No request for rezoning into closed districts shall be allowed. The R-20 and T-20 are closed districts.

8.3.4 Prohibited Uses.

Whenever, in any zoning district, a use is neither specifically permitted nor prohibited, the use shall be prohibited.

8.3.5 Zoning Upon Detachment.

Any tract of land that is part of a statutory or charter city shall be zoned A-40 District if said tract of land is detached and becomes part of an adjoining township at any time on or after the effective date of this Ordinance.

SECTION 9. PRIMARY DISTRICT PROVISIONS.

That *Section 9 of Stearns County Ordinance Number 439, or successor ordinance*, is hereby adopted by reference, except for the following:

9.3 Agricultural District A-40 (A-40 District).

9.3.3 Provisional Uses.

That Section 9.3.3 B (Bed and breakfast inns) is hereby repealed.

9.3.4 Permitted Accessory Uses and Structures.

That Section 9.3.4 E (Outdoor sales lot-accessory to motor vehicle repair) is hereby repealed.

9.3.5 Conditional Uses.

That Section 9.3.5 AA, BB and CC are hereby added to read as follows:

AA. Bed and breakfast inns

BB. Outdoor sales lot-accessory to motor vehicle repair

CC. Detached accessory dwelling units

9.3.7 Residential Density Requirements

That Section 9.3.7D shall read as follows:

D. **Inter-township transfers.** The transfer of residential development rights from one township to another township shall be approved by both the sending and receiving township. The transfer of residential development rights into Lynden Township is prohibited.

9.6 Residential District R-10 (R-10 District).

9.6.3 Provisional Uses.

That Section 9.6.3 B (Bed and breakfast inns) is hereby repealed.

9.6.5 Conditional Uses.

That Section 9.6.5 K and L is hereby added to read as follows:

K. Bed and breakfast inns

L. Detached accessory dwelling units

9.6.7 Residential Density Requirements.

That Section 9.6.7D shall read as follows:

D. **Inter-township transfers.** The transfer of residential development rights from one township to another township shall be approved by both the sending and receiving township. The transfer of residential development rights into Lynden Township is prohibited.

9.7 Residential District R-5 (R-5 District).

9.7.3 Provisional Uses

That Section 9.7.3 B (Bed and breakfast inns) is hereby repealed.

9.7.5 Conditional Uses

That Section 9.7.5 J and K is hereby added to read as follows:

- J. Bed and breakfast inns
- K. Detached accessory dwelling units

9.7.7 Residential Density Requirements

That Section 9.7.7D shall read as follows:

D. Inter-township transfers. The transfer of residential development rights from one township to another township shall be approved by both the sending and receiving township. The transfer of residential development rights into Lynden Township is prohibited.

9.9 Residential District R-1 (R-1 District).

9.9.3 Provisional Uses.

That Section 9.9.3 B (Attached single family dwelling units), 9.9.3 C (Bed and breakfast inns) and 9.9.3 H (outdoor recreational facilities) are hereby repealed.

9.9.5 Conditional Uses.

That Sections 9.9.5 I, J, K and L are hereby added to read as follows:

- I. Attached single family dwelling units
- J. Bed and breakfast inns
- K. Outdoor recreational facilities
- L. Detached accessory dwelling units

9.13 Scenic River District (SR District).

9.13.7 Provisional Uses.

That Section 9.13.7 B (Bed and breakfast inns) is hereby repealed.

9.13.8 Conditional Uses.

That Sections 9.13.8 H are hereby added to read as follows:

- H. Detached accessory dwelling units

SECTION 10. OVERLAY DISTRICT STANDARDS.

10.3 Conservation Design Overlay District.

That Section 10.3, Conservation Design Overlay District of Stearns County Ordinance Number 439, or successor Ordinance is hereby adopted by reference.

10.4 Airport Overlay District.

That Section 10.4, Airport Overlay District of Stearns County Ordinance Number 439, or successor Ordinance is hereby adopted by reference.

SECTION 11. TRANSFER OF DEVELOPMENT RIGHTS PROGRAM.

That Section 11 of Stearns County Ordinance Number 439 or successor Ordinance is hereby adopted by reference.

SECTION 12. ENFORCEMENT.

12.1 Any 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, but not limited to, violations of conditions and safeguards established in connection with the granting of variances and conditional and interim use permits or failures to comply with restoration orders, or who knowingly makes any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not to exceed \$1,000 or by imprisonment not to exceed 90 days or both. Each day that a violation continues shall constitute a separate offense.

In the event of a violation or a threatened violation of this Ordinance, in addition to other remedies, the Board, 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.*

SECTION 13. FEES.

To defray the administrative costs of processing requests for site permits, conditional uses, interim uses, amendments, variances or appeals, a base fee per application shall be paid by all applicants in accordance with the fee schedule approved by of the Township Board of Supervisors. In addition, the applicant shall provide an escrow to the Township with the application in the amount set forth in the fee schedule from which the Township may reimburse itself for engineers' planners' and attorneys' fees it incurs in processing an application described in this paragraph. The Township may require such escrow to be replenished to its original level as it draws the escrow down. In the event the Township's reimbursement expenses exceed the amount of the escrow and the escrow is not replenished as required by the Township, the Township may certify such unreimbursed costs to the County Auditor and against the applicant's property pursuant to Minn. Stat. § 366.012.

SECTION 14. EFFECTIVE DATE.

This Ordinance shall be in full force and be effective upon publication.

SECTION 15. REPEALER.

Lynden Township Subdivision Ordinance #7 approved on July 2, 2018 is hereby repealed.

PASSED BY THE LYNDEN TOWNSHIP BOARD OF SUPERVISORS THIS 7TH DAY OF AUGUST, 2023.

APPROVED:

Tom Plaggerman
Lynden Township Chair

ATTEST:

Jenny Schmidt
Lynden Township Clerk