CHAPTER 1

TITLE; AUTHORITY; GENERAL PROVISIONS

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1-1-1: TITLE:

This Ordinance shall be known, cited, and referred to as the *HAWLEY TOWNSHIP LAND DEVELOPMENT ORDINANCE: ZONING AND SUBDIVISION REGULATIONS.*

1-1-2: STATUTORY AUTHORIZATION:

This Ordinance is adopted pursuant to the authority granted in Minnesota Statutes Annotated 462.351-462.362.

1-1-3: PURPOSE:

This Ordinance is enacted for the general purposes of promoting the public health, safety, morals, and general welfare; provide for adequate light, air, and water; provide for safety from fire, flood, and other dangers; prevent undue concentration of population; preserve property values; preserve prime agricultural land; facilitate the provision of adequate public facilities; and preserve and enhance the quality of surface and ground water. In addition, this Ordinance is enacted for the following specific purposes:

1. **Flood Hazard Areas:** The special flood hazard areas of Clay County and Hawley Township are subject to periodic inundation that results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures on flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare and to minimize those losses described above by provisions contained herein. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
2. **Shorelands:**  The uncontrolled use of shorelands of the County and Hawley Township affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The State Legislature has delegated responsibility to local governments of the State to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the Township.
3. **Development in Unincorporated Area:**  The control of land use in the unincorporated area of the County will promote orderly, aesthetic development and a logical sequence of development. Incompatible land uses should be separated, thereby promoting the health, safety, and public welfare and enhancing the local tax base. It is in the best interest of the public to provide for the wise subdivision, use, and development of the lands of the Township.

1-1-4: INTENT AND FUNCTIONS:

The purposes of this Ordinance are to be achieved by regulating the following: the location, height, bulk, number of stories, and size of buildings and other structures; the percentage of lot area which may be occupied, the size of yards and other open spaces; the density and distribution of population; the uses of land, buildings, and structures for trade, industry, residences, recreation, public activities, and agriculture; the development of shorelands and flood hazard areas.

Regulation shall be accomplished by:

1. **Standards and Procedures:** Establishing standards and procedures regulating such uses;
2. **Subdivision:** Providing for the subdivision of land;
3. **Zoning Districts:** Dividing the unincorporated areas of the Township into zones or districts;
4. **Administration:** Defining duties of the administrating officers;
5. **Amendment:** Providing for amendments; and
6. **Enforcement:** Prescribing penalties for the violation of the provisions of this Ordinance or amendments thereto.

1-1-5: JURISDICTION/RELATIONSHIP TO OTHER JURISDICTIONS:

The provisions of this Ordinance shall apply to all the area of Hawley Township:

1-1-6: Compliance Required for all development:

Beginning on the effective date of this Ordinance and subsequent amendments, all development of land in Hawley Towsnhip shall be in conformance with the provisions of this Ordinance and other applicable regulations. Any development not in conformity with these regulations shall be regarded as nonconforming, but may be continued, subject to the regulations provided in Chapter 2 of this Ordinance.

1. **Definition. Development Defined:**  Except as otherwise provided, "development" means the commencement of any building or mining operation, the making of a change in the use or appearance of any structure or land, the parceling of land into one or more lots and the creation or termination of rights of access or riparian rights. Development includes all other activities customarily associated with it unless otherwise specified. Reference to any specific operation as not involving development is not intended to mean that the operation or activity when part of other operations or activities are not development. Reference to particular operations is not intended to limit the generality of subsection 1, below.
   1. **Activities or Uses Considered Development:**  The following activities or uses shall be considered "development" as defined in this Section:
      1. **Change in Use:**  A change in the use of a structure or land;
      2. **Reconstruction or Alteration of a Structure:** Reconstruction or alteration of a structure, including, but not limited to alteration of the size of the structure;
      3. **Increase in Intensity of Use:** An increase in the intensity of use of land such as an increase in the number of businesses, manufacturing establishments, office or dwelling units in a structure or on a parcel of land, or expansion of the area of a structure or a parcel of land that is dedicated to a land use;
      4. **Mining or Excavation:** Commencement or expansion of mining or excavation on a parcel of land;
      5. **Fill:** Deposit of refuse, soils or other materials to fill a parcel of land;
      6. **Alteration of Shore, Bank or Flood Plain:** Alteration of a shore, bank or flood plain of a river, stream, lake, pond or artificial bodies of water;
      7. **Reestablishment of Use:** Reestablishment of a use which has been abandoned for one year;
      8. **Subdivision:** Residential, commercial or industrial subdivisions;
      9. **Departure from Normal Use:** Departure from the normal use for which development permission has been granted or failure to comply with the conditions of this Ordinance or order granting the development permission under which the development was commenced or is continued.
      10. **Access**: Any request for an Access Connection (new, changed, modified, altered, re-constructed, etc.) onto a County highway or public right-of-way which includes any field entrance, driveway or public/private roadway (see the Clay County Development Code for further details). This includes any type of access such as permanent, temporary or field access/opening.
   2. **Operations Not Considered Development:** The following operations or uses do not constitute development for the purposes of this Ordinance:
      1. **Maintenance or Improvement of Public Road or Railroad:** The maintenance or improvement of a public road or railroad track not involving engineering redesign if the work is carried out on land within the boundaries of the right of way;
      2. **Work by Utility:** Work by any utility not involving engineering redesign for the purpose of inspection, repair, renewal or construction on established right of ways of any sewer, mains, pipes, cables, utility tunnels, power lines, towers, poles tracks or the like;
      3. **Work on Interior of Structure; Change of Exterior Color:**  Work for the maintenance, renewal, improvement or alteration of any structure if the work affects only the interior, or the color of the structure or decoration of the exterior of the structure but does not otherwise result in a structural alteration. Nonstructural roofing and window replacement are not considered development;
      4. **Transfer of Title:** A transfer of title to land not involving the division of land into parcels;
      5. **Agreements:**  The creation of lease agreements or other agreements of possession for existing parcels of land;
      6. **Easements; Covenants:**  The creation or termination of easements or covenants concerning development of land or other rights in land not otherwise involving development.

1-1-7: INTERPRETATION:

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

1. **Abrogation and Greater Restrictions:** This Ordinance is not intended 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. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.
2. **Warning and Disclaimer of Liability:** This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the Township or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.
3. **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.