



JACKSON TOWNSHIP

Zoning Regulation

Sargent County, North Dakota

March 2009

ARTICLE I INTRODUCTION

1.1 Title

These regulations shall be known, and may be cited and referred to as the Jackson Township Sargent County, North Dakota Zoning Regulations.

1.2 Purpose and Intent

- 1.2.1 To protect public health, safety, morals, comfort, convenience, prosperity and general welfare of the Township of Jackson, Sargent County, North Dakota.
- 1.2.2 To secure safety from fire, panic, noxious fumes, and other dangers.
- 1.2.3 To preserve and protect farming operations, farm lands and natural resources of the township.
- 1.2.4 To promote orderly development of land and water resources and to prevent conflict among land uses and structures.

1.3 Authority

These regulations are adopted under the authority granted by Chapter 58-03 of the North Dakota Century Code.

1.4 Jurisdiction

1.4.1 General

These regulations shall apply to the use and enjoyment of all lands within the Jackson Township, Sargent County, North Dakota

1.4.2 Extraterritorial Areas

When an incorporated municipality has declared its intent in exercising its extraterritorial authority as provided by Chapter 40-47 of the North Dakota Century Code, these regulations shall not apply to the area delineated for that purpose.

1.5 Interpretation

These regulations shall be held to be minimum requirements adopted for promotion of purposes cited in Section 1.2. Whenever, the requirements of these regulations are at variance with the requirements of other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive shall govern unless otherwise specifically stated.

1.6 Severability

In any part, provision or portion of these regulations, is adjudged invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

1.7 Effective Date

These regulations shall be effective upon adoption by the Township Board of Supervisors as provided by the North Dakota Century Code.

1.8 Exceptions

These regulations shall not apply to the use of land and buildings for agriculture as defined herein.

ARTICLE 2 RULES AND DEFINITIONS

2.1 RULES

In construction of these regulations, the rules and definitions contained in this section shall be observed and applied except when the context clearly indicates otherwise.

2.1.1 Words used in present tense shall include the future.

2.1.2 Words used in singular number shall include the plural number, and the plural the singular.

2.1.3 Shall is a mandatory word and not discretionary.

2.1.4 May is a permissive word.

2.2 Definitions

2.2.1 “Accessory Building and Uses” means a subordinate building or portion of the main building the use of which is clearly incidental to and serves exclusively the principle building or principal use. The accessory building or use shall be located on the same zoning lot and it is established to contribute to the comfort, convenience or necessity of occupants of the principal building or principal use.

2.2.2 “Agriculture” means the process of producing food and fiber including, but not limited to the land, facilities, structures, and buildings for operation and maintenance thereof. It includes all types of general farming, crop and vegetable farming, dairying, livestock and poultry raising, apiaries, fur farming, horticulture, pasturing, tree farming and related land based food and fiber producing facilities.

2.2.3 “Airport” means any area designated for the landing and take off of aircraft and any appurtenant areas, which are used or intended for use for airport buildings and structures including runways, taxiways, aircraft storage and tie down areas, hangars and other related facilities and open spaces other than landing strips used for family purposes.

2.2.4 “Animal Hospital or Kennel” means a building or premises set up for treatment and boarding of domestic animals including veterinary facilities.

2.2.5 “Building” means any structure designed or intended for shelter, housing, business, office, and accommodation of persons, animals, chattels or property.

2.2.6 “Building Area” means that portion of the zoning lot that can be occupied by the principal use, excluding the front, rear and side yards.

- 2.2.7 “Building Height”** means vertical distance from the grade to the highest point of the roof.
- 2.2.8 “Building Line”** means a line establishing the minimum distance that structures may be placed from the lot lines or highway right-of-way. For the purposes of these regulations the building line is the same as setback line.
- 2.2.9 “Building, Principal”** means a building, the principal use of which is single family and multi-family dwellings, and offices, shops, stores and other uses.
- 2.2.10 “Channel”** means a natural or man-made water course for conducting the flowing water.
- 2.2.11 “Club or Lodge,”** means a private club or lodge which is a non profit association of persons for the purpose of gatherings and entertaining members including consumption of food and beverages.
- 2.2.12 “Comprehensive Plan”** means a guide for management of the physical resources and development of the Township as adopted by the Board of Supervisors.
- 2.2.13 “Conditional Use”** means use of a special nature not automatically permitted in a zoning district and which requires review and approval of the Zoning Commission after public hearing.
- 2.2.14 “Conforming Building or Structure”** means a building or structure which complies with all requirements of these regulations and other regulations adopted by the Township.
- 2.2.15 “Development”** means any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings, structures, or accessory structures, the construction of additions or alterations to buildings or structures, ditching, lagooning, dredging, filling, grading, paving, excavation and drilling operations.
- 2.2.16 “Development Plan”** means a document including maps and data for physical development of an area as provided by these regulations.
- 2.2.17 “District”** means a section or sections of the township for which regulations governing the use of building and premises, the building heights, size of yards, lot area, lot width and the use are uniform.
- 2.2.18 “Dwelling”** means any building or portion thereof, used exclusively for human habitation including single family and multiple family units but not including hotels or motels.
- 2.2.19 “Dwelling, Multiple Family”** means a single building or portion thereof, containing two (2) or more dwelling units.
- 2.2.20 “Dwelling, Single Family”** means a building containing one dwelling unit only.
- 2.2.21 “Encroachment”** means any fill, building, structure or use including accessory uses projecting into the required yard areas or public and private property.
- 2.2.22 “Establishment”** means a place of business for processing, production, assembly, sales, service of goods and materials.
- 2.2.23 “Feedlot”** means a parcel of land which contains a commercial operation for feeding or raising of 200 (two hundred) or more animals which is operated as a separate activity and not incidental to farming.

2.2.24 “Flood Plain” means an area which may be covered by flood water including but not limited to regional floods.

2.2.25 “Frontage” means the front part of a lot abutting a public right-of-way, or road or highway.

2.2.26 “Grade” means the land elevation at the horizontal intersection of the ground and the building.

2.2.27 “Home Occupation” means any occupation carried on in a dwelling unit by a member or members of the family and which meets these requirements:

- (1) That the occupation is conducted within the principal building and not in an accessory building.
- (2) That no stock-in-trade is kept or commodities sold other than those produced on the premises.
- (3) That no more than twenty five percent (25%) of the floor area of the dwelling is devoted to such home occupation.

2.2.28 “Hotel or Motel” means a building in which lodging accommodations, with or without meals are provided for compensation.

2.2.29 “Junk or Salvage Yard” means an open area where waste of scrap material, including parts of used motor vehicles, appliances and farm implements are bought, sold, exchanged, stored, baled, parked, disassembled or handled.

2.2.30 “Kennel, Animal” means any premises where dogs, cats and other household pets are boarded, bred and maintained for compensation.

2.2.31 “Lot” means a piece, parcel, lot or area of land of continuous assemblage established by survey, plat or deed.

2.2.32 “Lot Lines” means the property lines bounding the lot.

2.2.33 “Lot Width” means the horizontal distance between the side lot lines of a lot measured at the front building setback line.

2.2.34 “Lot, Zoning” means a single lot, parcel, tract of land within a zoning district developed or to be developed.

2.2.35 “Mobile Home” means a manufactured trailer intended for family residential occupancy.

2.2.36 “Mobile Home Park” means a parcel of land for which a detailed plan indicating the location of lots, blocks, streets, facilities and utilities exists.

2.2.37 “Nonconforming Building” means any building which does not comply with any of all of these regulations.

2.2.38 “Nonconforming Use” means any principal use of land or building which does not comply with any or all of these regulations.

2.2.39 “Nursing Home or Convalescent Home” means a home for the aged or infirm which unrelated persons are accommodated for compensation.

2.2.40 “Permitted Uses” means those uses, buildings or structures which comply with the provisions of specific zoning districts because of the similarities in nature and relationship to each other. Permitted uses are distinct from conditional uses that are authorized only if certain requirements of these provisions are met after a public hearing and approval by the Zoning Commission.

2.2.41 “Persons” means any individual, firm, corporation, partnership or legal entity.

2.2.42 “Planned Development” means a grouping of buildings and structures on a site of five (5) or more acres in single ownership which is not limited by the yard or building height limitations but is based on a detailed development plan and recorded in the Office of the County Register of Deeds upon approval by the Township Board of Supervisors.

2.2.43 “Public Roadway or Public Way” means any dedicated and recorded right-a-way including alleys, sidewalks, streets, roads or highways.

2.2.44 “Regional Flood” means a flood determined by the state and Federal Emergency Management Agency which is representative of large floods known to have occurred in the County.

2.2.45 “Service Station” means any building or premises where automotive fuels, automotive related services, lubricants, parts, and supplies are made available to the motorist.

2.2.46 “Sign” means any emblem, name, identification, description or illustration which is used for outdoor advertising having permanent location of the ground or attached to or painted on a building including bulletin boards, billboards and poster boards, but excluding real estate for sale signs, political campaign signs, public information and traffic signs.

2.2.47 “Site Plan” means a detailed plan for making improvements to parcel(s) of land for the purpose of building and development as provided in these regulations.

2.2.48 “Structural Alterations” means any change in the supporting elements of a building or structure including bearing elements, partitions, columns, beams, girders, roofs, exterior walls and embankment.

2.2.49 “Structure” means anything constructed or erected, the use of which requires permanent location on the ground including advertising signs and billboards.

2.2.50 “Variance” means the relaxation of the terms of the zoning regulations in relationship to building height, size of the front, rear and side yards, where the literal enforcement of these regulations could create unreasonable hardship, but it is not contrary to the purposes of the Township Comprehensive Plan and these regulations.

2.2.51 “Yard” means an open space on the zoning lot which is unoccupied or unobstructed by any portion of a structure from the ground upward.

2.2.52 “Zoning Commission” means a body consisting of the three (3) Township supervisors and appointed members under the authority of Chapter 58-03-13 of the North Dakota Century Code to review the planning issues, prepare plans, review the zoning requests and plats of subdivision, zoning amendments and conditional uses and recommendations of the Board of Supervisors.

ARTICLE 3 GENERAL PROVISIONS

3.1 Compliance

No building or land shall hereafter be used or occupied and no building shall be Erected, moved, or altered unless in conformity with these regulations.

3.1.1 Building Height, Lot Area and Yards

No building shall exceed the height, occupy larger part of lot area, and no lot shall be created smaller than the requirements of these regulations.

3.1.2 Substandard Lots

All existing lots at the date of adoption of these regulations shall be deemed buildable unless for the reasons of land suitability, flooding and other physical limitations contrary to the purpose of these regulations.

3.2 Amendments

The Township Board of Supervisors may, from time to time, amend, supplement or Repeal any part of these regulations after a public notice and hearing.

3.3 Comprehensive Plan

These regulations are administered and enforced to implement the Comprehensive Plan of the Township, a document adopted by the Board of Supervisors as a policy Guide for protection of the townships natural resources and accommodating the type Of development deemed appropriate including but not limited to the following Objectives.

- 3.3.1 To conserve and enhance the taxable value of land and buildings in the township.
- 3.3.2 To encourage the most appropriate use of land in the township.
- 3.3.3 To protect the character and maintain the stability of farming activities and production.
- 3.3.4 To regulate and restrict the location and intensity of use of buildings and land not related to farming.
- 3.3.5 To separate and control unavoidable nuisance producing uses to minimize the adverse impacts on the surrounding areas or uses.
- 3.3.6 To facilitate traffic movement and promote development of compatible uses.

3.4 Non-conforming Uses

The lawful use of a building or premises existing at the date of adoption of these regulations may be continued. Where a non-conforming use is discontinued for a period of more than twelve consecutive calendar months any subsequent use or occupancy of such premises shall conform to these regulations. Whenever a building is destroyed or damaged by fire or other casualty to the extent of more than sixty percent (60%) of its market value it shall not be restored unless said building shall conform to the provisions of the district in which it is located. Non-conforming uses

shall not be expanded to occupy a larger area of land than existed at the date of adoption of these regulations unless approved by the Zoning Commission after a public hearing.

3.5 Land Suitability

No land shall be used for a purpose which is held unsuitable for the reason of flooding, soil limitations, inadequate drainage, incompatibility with adjoining uses or any condition likely to be harmful to the health, safety or the welfare of the people in the area. The Township Zoning Commission may require information and data to determine the land suitability. The Township may consult with county and state agencies to assist in its determination.

3.6 Conditionally Permitted Uses

Where a use is classified as a conditional use under these regulations and exists at the date of adoption of these regulations, it shall be considered a permitted use. Where a use is not allowed as a conditional use or permitted use, under these regulations, and exists at the date of adoption of these regulations, it shall be considered non-conforming and shall be subject to the non-conforming buildings and use provisions.

3.7 Road and Highway Access

A permit for access to the township roads is required by the Board of Supervisors. In granting the access permit to the township roads, the Board of Supervisors may adopt rules and regulations as to the number of access points per mile, the width, construction and other features of the access to the adjoining property. The Board of Supervisors may place conditions when granting a road access permit. Farm driveways and field access points are exempt from these provisions.

3.8 Road and Highway Setback – Tree Plantings, Shelterbelts

All buildings and structures shall be placed at least 100 (one hundred) feet from county and state highway rights-of-ways and 75 (seventy five) feet from the township road rights-of-way for the purpose of preventing hazardous accumulations of snow and to allow for future widening of public right-of-ways. Tree plantings and shelterbelts shall be planted 120' from center of N and W roads and 100' from center of S and E roads.

ARTICLE 4 ZONING DISTRICT BOUNDARIES AND MAP

4.1 Zoning Districts

In order to carry out the purposes and provisions of these regulations, the following Zoning districts are hereby established.

4.1.1 A-1 Agricultural District

4.2 Zoning District Map

4.2.1 Zoning Districts

The location and boundaries of the zoning districts are hereby established as shown on the “Zoning District Map” on file in the Office of the Township Code Administrator. The zoning district maps, together with all information shown Thereon and all amendments thereto, shall be an integral part of there regulations.

4.2.2 Public Roads and Highways as Boundary

Where zoning district boundary lines are indicated as following roads and highways or extensions thereof, such boundary lines shall be construed to be the center line of said roads and highways or extension thereof unless clearly shown to the contrary.

4.2.3 Property Line as Boundary

Where a zoning district boundary line coincides approximately but not exactly with the property line, the zoning boundary shall be construed to be the lot line at that location. All section lines, quarter section lines and quarter quarter section lines may be construed as the property lines.

4.2.4 District Description for Unsubdivided Lands

For unsubdivided property, zoning district boundaries are determined by metes and bounds description or by a legal description as deemed necessary.

4.2.5 Vacated Areas

Where a public road or highway is vacated by the official action of the Board of Township Supervisors, the zoning district boundaries shall be extended to the center of the vacated public road or highway.

4.2.6 Zoning District Boundary Interpretation

Where any uncertainty exists as to the exact location of the zoning district boundary lines, the Board of Supervisors shall determine the location of such boundary lines.

4.2.7 Certification

The official zoning map shall bear a certificate with the signature of the Township Chairman and certification of the Township Clerk and date of adoption of the Zoning map as an integral part of these regulations.

ARTICLE 5 ZONING DISTRICT REGULATIONS

5.1 A-1 Agricultural District

5.1.1 Purpose

The Purpose of this district is to provide for preservation and protection of agricultural lands and to discourage uses incompatible with agricultural operations or detrimental to agricultural lands utilization.

5.1.2. Permitted Uses

5.1.2.1 All types of farming and ranching operations including dairying, livestock and poultry raising, apiaries and fur farming.

5.1.2.2 Accessory Buildings and Structures.

5.1.2.3 Cemeteries.

5.1.2.4 Churches.

5.1.2.5 Golf Courses.

5.1.2.6 Grain Elevators and Accessory Structures.

5.1.2.7 Home Occupations.

5.1.2.8 Parks and Playgrounds.

5.1.2.9 Mobile Homes.

5.1.2.10 Public and Private Schools.

5.1.2.11 Public Buildings and Facilities Including County Garages.

5.1.2.12 Single Family Non-farm Residential Units on 5 (five) acres or more

5.1.2.13 Stock Piling of Sand and Gravel for Road Constructions and Maintenance.

5.1.2.14 Construction and Maintenance of Drainage Systems to Manage the Water Run-off

5.1.2.15 Water Reservoirs

5.1.3 Conditionally Permitted Uses

5.1.3.1 Antique and Craft Shops.

5.1.3.2 Art Studios.

5.1.3.3 Commercially Operated Air Landing Strip and Accessory Buildings.

5.1.3.4 Feedlots.

5.1.3.5 Voltage Transmission Lines and Accessory Structures.

5.1.3.6 Manufacturing and Processing of Agricultural Products produces in the area.

5.1.3.7 Radio, TV Stations and Towers.

5.1.3.8 Sale and Services of Agricultural Equipment and Machinery.

5.1.3.9 Salvage and Junk Yards Subject to Provision of Section 6.5

5.1.3.10 Sanitary Landfills Subject to Provision of Section 6.4

5.1.3.11 Sewage Lagoons and Wastewater Treatment Facilities.

5.1.3.12 Skeet, Trap and Rifle Ranges if not nearer that 1,000 (one thousand) feet from any residence.

5.1.3.13 Storage of Farm related Chemicals.

5.1.3.14 Veterinary Clinics, Animal Hospitals and Domestic Animal Kennels not nearer that 500 (five hundred) feet from any residence except the residence of the owner or operator.

5.1.3.15 Mining of sand and gravel subject to Provisions of Section 6.3.

5.1.3.16 Utility Lines and Pipe Lines including substations for Transformers, Pumping Stations, and Lift Stations.

5.1.3.17 Wind Generated Facilities

5.1.4 Lot Area and Lot Width

5.1.4.1 For non-farm residential uses the lot area shall not be less than 5 (five) acres.

5.1.4.2 For non residential uses the lot area shall not be less than 5 (five) acres.

5.1.4.3 The lot width for any use in agricultural district shall not be less than 250 (two hundred fifty) feet.

5.1.5 Yard Requirements

5.1.5.1 The minimum front yard, measured from the front lot line shall not be less than 75 (seventy five) feet for properties abutting township roads and 100 (one hundred) feet for properties fronting on other rights-of-ways.

5.1.5.2 The minimum rear yard, measured from the rear lot line shall not be less than 50 (fifty) feet.

5.1.5.3 The minimum side yard, measured from the side lot line shall not be less than 50 (fifty) feet.

5.1.6 Building Height

5.1.6.1 The building height for residential buildings shall not exceed two and one half stories or 35 (thirty five) feet except for farm buildings and structures.

5.1.6.2 The building heights for manufacturing of agricultural products shall be determined by the Township Board of Supervisors.

5.1.6.3 The building height, excepting the radio and TV towers and church steeples for all other uses shall not exceed 35 (thirty five) feet.

5.1.7 Parking Requirements

For non farm uses the parking requirements shall be subject to the provisions of Section 6.1 of these regulations.

5.1.8 Sign Requirements

Sign requirements shall be subject to the provisions of Section 6.2 of these regulations.

ARTICLE 6 SPECIAL PROVISIONS

6.1 Off-Street Parking

6.1.1 Purpose

The purpose of this section is to provide for the off-street parking regulations to:

6.1.1.1 Increase the safety and capacity of Public roads by requiring off-street parking or loading facilities.

6.1.1.2 Minimize adverse effects of off-street parking and off-street loading facilities on the adjacent properties.

6.1.1.3 Lessen congestion and preventing the overtaxing of public roads by regulating the location and capacity of off-street parking or off-street facilities.

6.1.2 General Requirements

6.1.2.1 An off-street automobile parking space shall be at least 9 (nine) feet wide and 20 (twenty) feet long, exclusive of access drives or ramps.

6.1.2.2 All open off-street parking areas with 4 (four) or more spaces and all loading berths shall be:

- (1) improved with all weather surface to provide a durable and dust free surface;
- (2) graded to dispose of all surface water run-off but not be diverted to adjoining properties.

6.1.3 Special Requirements

6.1.3.1 No building shall be erected or enlarged without meeting the following parking requirements.

- (1) Business; professional or public office building, studio, bank, medical or dental clinics, three (3) parking spaces plus one additional space for each four hundred (400) square feet of floor area over one thousand (1000) square feet.
- (2) Hotels and motels; one parking space for each room plus one space for each two hundred (200) square feet of eating and drinking establishments or restaurants.
- (3) Private club or lodge; one parking space for each two hundred (200) square feet of service area.
- (4) Restaurant, eating and drinking establishment; one parking space for each one hundred (100) square feet of floor area.

6.2 Signs

6.2.1 Purpose

The purposes of regulating signs in the Township is to provide for a visually pleasant environment and minimize potentially unsafe conditions for all age groups, but yet offer many opportunities for public and private information and advertising.

6.2.2 General Requirements

6.2.2.1 No sign shall be located, erected, moved, reconstructed, extended, enlarged or structurally altered without obtaining a permit from the Township Code Administrator.

6.2.2.2 Signs shall not be permitted within 300 (three hundred) feet of any road crossing which is measured from the point of intersection of the road center lines. For state and federal highways the state and federal sign requirements shall apply.

6.2.2.3 Directory signs shall not be larger than 20 (twenty) square feet in area for permitted uses.

6.2.2.4 Directory signs for conditional uses shall not be larger than 40 (forty) square feet.

6.2.2.5 Advertising signs shall not be larger than 96 (ninety-six) square feet.

6.3 Mining of Sand and Gravel

6.3.1 Purpose

The purpose of these provisions is to provide for mining and extraction of sand and gravel for commercial uses, and to protect and preserve agricultural land by guiding such operations, and to minimize the traffic, noise, dust, fume and vibration impact on the adjoining uses and the road network.

6.3.2 Site Approval Requirements

All sand and gravel mining, excavation site require approval by Township Excepting those related to farming and township road maintenance.

6.3.3 Data Submission Requirements

6.3.3.1 A site plan for operation and reclamation of the mined land, including maps showing location of the land to be mined, location of roads and points of access to the site, maps showing the existing and proposed contours after the land is mined and a time table for operation of the site.

6.3.3.2 A guarantee that the reclamation of the site be completed within one year of the closure of the operation of the site.

6.3.3.3 Proof of compatibility with the existing land form including the vegetation, surface and ground water resources.

6.3.4 Proximity to Existing Uses

The operation of sand and gravel sites shall not be nearer than 500 (five hundred) feet from any residential uses or 300 (three hundred) feet from non-residential uses.

6.3.5 Permit Requirements

Any person who operates a sand and gravel operation shall obtain a permit from Township before resuming any mining or excavation of the sand and gravel sites.

6.4 Sanitary Landfills and Solid Waste Sites

6.4.1 Compliance with North Dakota State Laws and Rules

Any person who operates sanitary landfills or solid waste sites shall comply with All North Dakota state laws and administrative rules set forth by the state agencies.

6.4.2 Compliance with County Ordinances and Procedures

Where a county solid waste ordinance exists, any person who operates a sanitary landfill or solid waste site shall comply with the County Ordinance, rules and procedures.

6.4.3 Township Ordinance and Procedures

The Township hereby adopts solid waste provisions, subject to the provisions of NDCC 11-33-20, to assure meeting the purposes of these regulations and the Township comprehensive plan.

6.4.4 Purpose

The purpose of these provisions is to protect public health, ground and surface Water, conflict with present land uses and preservation and protection of natural Resources in the Township.

6.4.5 Site Approval Requirements

All solid sites require approval by Township Zoning Commission.

6.4.6 Location Standards

6.4.6.1 No landfill, incinerator shall be located within 1,000 (one thousand)

feet of residential uses, 500 (five hundred) feet of commercial buildings and structures.

6.4.6.2 No landfill shall be located in areas which due to high water table, flooding, or soil conditions may affect the quality of surface and ground water.

6.4.6.3 No landfill operation shall be located nearer than 200 (two hundred) feet of all road and highway rights-of way.

6.4.7 Data Submission Requirements

6.4.7.1 Maps of the area showing existing features such as roads, highways, vegetation cover, water courses, drainage way, soils, topography, depth of water table, wet lands, sloughs, existing uses, buildings and structures including the existing utility lines.

6.4.7.2 A plan for operation of the site including a descriptive text explaining consistency or inconsistency with the natural or man made environment.

6.4.7.3 Records of data and information submitted to the state of North Dakota appropriate agencies and the county as a part of application for state and county permits.

6.4.7.4 The Zoning Commission may require additional information if it deems it necessary.

6.4.8 Statement of Findings

Upon the public notification and a public hearing the Zoning Commission shall Determine whether the proposed site meets the requirements of these regulations. The Zoning Commission may place conditions for approval of the site.

6.5 Junk or Salvage Yards

6.5.1 Purpose

The purpose of these requirements is to preserve and protect the visual and other environmental amenities of the rural areas while allowing the salvage or junk yards as business places.

6.5.2 Site Approval Requirements

All sites for salvage and junk yard require approval by the Township Zoning Commission.

6.5.3 Locational Standards

6.5.3.1 No salvage or junk yard shall be located within 500(five hundred) feet of a residential district and 200 (two hundred) feet of commercial buildings and structures.

6.5.3.2 No salvage or junk yard shall be located in areas which due to high water table, flooding and soil conditions may affect the quality of surface and ground water.

6.5.3.3 No salvage or junk yard shall be located nearer than 100 (one hundred) feet of all road and highway rights-of-way.

6.5.3.4 All salvage yards and operations shall be screened from the public view unless the salvage material is placed 500 (five hundred) feet away from any highway right-of-way and screened by natural vegetation, building and land form.

6.6 Utilities

6.6.1 Purpose

The purpose of these provisions is to encourage orderly development of utilities in relationship to the agricultural and non agricultural uses and to provide for the safety of the Township residents.

6.6.2 General Requirements

6.6.2.1 The utilities include but not limited to electric power, electrical transmission lines, electrical towers and substation, natural gas pipelines, the petroleum product pipelines, water and sewer lines, telephone lines and other above ground or underground communication and energy transfer lines and pipelines.

6.6.2.2 All new utility lines and pipelines require a permit from the Zoning Commission.

6.6.2.3 All new utility lines and pipelines are considered conditional uses and shall conform to the provisions of Section 8.2, Conditional Use Permit, of these regulations.

6.6.2.4 All pipelines, natural gas, petroleum pipelines and other energy transfer

lines shall be placed deep enough in the ground so as to not interfere with or become hazardous to normal farming operations.

6.6.2.5 Excavation for tunneling of any pipelines under roads, farm drains, group drains and local drains shall be done by the company owning or leasing said pipelines and the cost of said excavation and damages to be born by the said company.

6.7 Public and Non-Profit Wildlife Management Areas

6.7.1 Purpose

These provisions are designed to address the need for Public Wildlife Management Areas and at the same time preserve and protect the interest of the township for its tax lease and investment in construction and maintenance of public roads.

6.7.2 General Requirements

6.7.2.1 All publicly owned and non-profit agency wildlife management areas established after adoption of these regulations require a conditional use permit subject to the provisions of Section 8.2.

6.7.2.2 If the area is leased for this purpose, the public agency is required to provide the following as a part of the petition for a conditional use permit:

- (1) A road maintenance agreement specifying duties and responsibilities of The owner/lessee for access and through roads
- (2) Duties and responsibilities of the owner/lessee for the control of noxious weeds in the wildlife management area.

6.7.2.3 If the land is purchased by a public agency for such a purpose, the public agency shall arrange for compensating the township for the loss of the property tax.

6.7.2.4 When a township toad provides access to the wildlife management area, a road maintenance agreement specifying the duties and responsibilities of the public agency shall be a part of the conditional use permit.

6.8 Commercial Feedlots

6.8.1 Purpose

These regulations are designed to allow commercial feedlots for feeding of livestock, fur bearers and poultry at the same time protect the adjoining uses against odor, run off and other incompatible characteristics associated with feedlots.

6.8.2 General Requirement

6.8.2.1 All feedlots as defined by these regulations are only permitted as conditional uses subject to the provisions of Section 8.2 and the requirements of the North Dakota Health Department.

6.8.2.2 All feedlots shall be designed and constructed with all reasonable preventive measures to avoid surface run-off including construction of sealed collection and retention ponds.

6.8.2.3 Where appropriate, there shall be sufficient drainage to avoid pollution of the ground water from the standing effluents.

6.8.2.4 Feedlots shall not be placed in the floodplains.

6.8.2.5 The applicant, as a part of site approval application shall submit a plan for removal and disposal of the liquid and solid waste generated by the feed lot.

6.8.2.6 No feed lot shall be located nearer than one mile of the distance set by the township board or supervisor from a residential development in the unincorporated area of corporate limits of a town.

ARTICLE 7 ADMINISTRATION AND ENFORCEMENT

7.1 Organization

To administer these regulations the following bodies are hereby vested with authority to act in behalf of the Township;

- (1) The Code Administrator
- (2) The Zoning Commission

7.2 The Code Administrator

The Code Administrator is a duly appointed township official authorized by the Board of Supervisors and is responsible to administer Zoning Regulations, to assist the Zoning Commission, and the Board of Supervisors on any matter related to planning for and development of the township.

7.2.1 Duties

7.2.1.1 Issue all zoning certificates, permits and maintain records thereof.

7.2.1.2 Issue all building and repair permits.

7.2.1.3 Maintain Zoning related records and zoning district map including records of all amendments, conditional uses and variances.

7.2.1.4 Receive, file and forward to the Zoning Commission all applications for zoning amendments, site approvals and conditional uses.

7.2.1.5 Prepare and publish notices and notify adjoining property owners.

7.2.1.6 Notify, in writing, the property owner or user upon finding violation of these regulations and cite the nature of violation clearly and require compliance within a reasonable time. If the notification is not replied to or steps are not taken to correct the violations within 30 (thirty) days, the Code Administrator shall make a report of the findings to the Board of Supervisors.

7.2.2 Interpretation of Regulations

All questions of interpretation of these regulations shall be presented to the Code Administrator and that such questions shall be presented to the Board of Supervisors only on appeal from the decision of the Code Administrator.

7.2.3 Building Permit Applications

Any person or persons intending to construct or reconstruct or relocate a building Or make alteration, shall, before proceeding with the work, or commencing any Excavation in connection with it, shall obtain a permit from the Code Administrator. The regulations shall also apply to the mobile homes.

7.2.3.1 Each application for a building permit shall be accompanied by a legal description and a map showing the actual dimension of the lot to be build upon, the size, shape and location of the building for observing the yard requirements of these regulations.

7.2.3.2 The application shall specify the type of the building, structure, material, of which it is composed, the part or portion of the lot to be occupied by the principal building and accessory buildings and the probable building cost, together with such additional plans and specifications as required by these regulations.

7.2.4 Building Permits

The Code Administrator shall issue a building permit if the proposed building or Structure conforms to zoning and building provision of these regulations. If the Code Administrator denies a permit because of nonconformance with these Regulations, he shall inform the applicant of his/her right to appeal to the Board of Supervisors.

7.2.5 Building Permit Fees

The Code Administrator shall charge and collect a fee according to the Resolution of fees and Schedules established by the Township Board of Supervisors.

7.2.6 Certificate of Occupancy or Use

The Code Administrator shall issue a certificate of occupancy upon inspection of The completed building, including placement of mobile homes and manufactured Homes and assurance that all provisions and conditions set forth by the authority of These regulations are met. In the event the Code Administrator finds violations And deviations from the terms and conditions of these regulations, he shall make a report and recommendation for action to the Board of Supervisors.

7.2.7 Conditional Use and Site Approval Permits

The Code Administrator shall issue a Conditional use or site approval permit upon approval of the application by the Zoning Commission stipulating all conditions set forth.

7.2.8 Variances

The Code Administrator shall issue a permit if the Board of Supervisors reverses the decision. The terms of the variance or special use shall be stipulated in the permit.

7.3 The Zoning Commission

The Zoning Commission shall consist of the three township supervisors. Where a city Is exercising extraterritorial zoning jurisdiction two members may be appointed by the City to the township zoning commission.

7.3.1 Duties

7.3.1.1 To hear and act on all applications for amendments to zoning districts and take action for approval, denial or approval with modification.

7.3.1.2 To hear and act on all applications for conditional uses and site approvals in the manner prescribed in these regulations and take action for approval or denial.

7.3.1.3 To study, examine and take action on issues which may adversely

affect the natural resources and farming operations in the Township.

7.3.2 Notice of Hearings

The Zoning Commission shall fix a reasonable date for hearing of applications for Zoning district amendments, conditional use permits, site approval applications and Other matters before it, give public notice thereof in the official newspaper of the County and the nearest regularly published newspaper at least 15 (fifteen) days Prior to the hearing. The notices shall give time and place of hearing and shall State the purpose of the hearing and that the applications and supporting documents For zoning district amendments and conditional use permits shall be available for Public inspection by the Code Administrator.

7.3.3 Meeting

Meetings of the Zoning Commission shall be held at the call of the Chairperson and at such other times as the Zoning Commission may determine. All meetings shall be open to the public and any person may testify for or against petition.

7.4 Violations and Penalties

Any person who violates any provision of these regulations or fails to comply with Any of its requirements including the conditions or modification of use, building or Structure shall upon conviction thereof forfeit not more than \$100 and in addition Pay all expenses involved in the case. Each day such violation continues shall Constitute a separate offense.

ARTICLE 8 PROCEDURES FOR AMENDMENTS, CONDITIONAL USES AND VARIANCES

8.1 Zoning District Amendments

8.1.1 Public Hearing Notice

The Zoning Commission shall hold a public hearing, a notice of which shall be published at least 15 (fifteen) days prior to the hearing in the official newspaper of The county. The notice of hearing shall include: (1) the time and place of hearing; (2) description of property by street address for platted lands and clearly identifiable location for the unplatted lands; (3) the proposed use and requested zoning district change; (4) time and place for public inspection of the documents before hearing.

8.1.2 Public Hearings

The Zoning Commission at the hearing shall listen to all persons who may speak in

Support of or in opposition to the proposal. Upon the completion of its review, the Zoning Commission shall take action for approval, denial or modification of the Petition. The Zoning Commission may require additional information before It completes its findings and takes action.

8.1.3 Data Submission Requirements

Petitions for zoning district change and conditional uses shall be submitted with the following information:

8.1.3.1 Legal description of the area proposed to be rezoned, the name and addresses of all owners of property lying within one mile of the site.

8.1.3.2 A map showing the existing land uses and zoning district classification of the area.

8.1.3.3 A site plan showing buildings and uses in the zoning district proposed to be changed and the requested zoning district classification.

8.1.3.4 A fee shall be paid in accordance with the schedule established by the Township Board of Supervisors.

Fee for Applications

Building Permits \$1.00

Conditional Use Permits \$20,000/or each application will be reviewed and set at the Zoning Boards discretion

8.1.4 Deliberation and Decision

Following the hearing, the Zoning Commission, upon due deliberation, shall make a report of its findings and decides on the proposed amendment within 30 (thirty) days after the hearing. In making its finding, the Zoning Commission shall ascertain as to whether the proposal for zoning district amendment is consistent with the township Comprehensive Plan and meets all requirements of these regulations and other regulations of the township.

8.2 Conditional Use Permit

8.2.1 Purpose

The development of these regulations is based upon division of the township into Districts, within which district the use of land and building bulk and locations of Building and structures are mutually compatible and substantially harmonious. However, there are certain uses which, because of their unique characteristics, Cannot be properly classified as permitted uses in any particular district, without

A Public Meeting of the Jackson Township Zoning Board was held January 20,2023 at 1:00 pm at the home of Dan Delahoyde, zoning chairman. Those present were Dan Delahoyde, Paul Mathews, and Valera Hayen. Purpose of the meeting was to discuss set back distance of hazardous pipelines installed hereafter, such as oil, gas, and CO2.

Discussion was held on proposed setback. Paul made the motion:

For Township Zoning purposes, hazardous pipelines in stalled hereafter, such as oil,gas and CO2 transmission lines, we adopt a half mile (2640 feet) from township inhabited residences of Jackson Township. This setback may be waived by the owner of the inhabited residence in writing.

The discussion on the proposed motion consisted and included of “promoting health, safety, morals, public convenience, general prosperity, and public welfare” of Jackson Township inhabited residences. Being Jackson Township has experienced prior oi pipeline (Keystone) where the applicant understood risks associated with it’s installation and voluntarily complied with setbacks near 2000 feet and being other pipelines may carry tasteless-odorless gas, we recognize setback of 2640 feet as not oppressive since our township currently has no emergency services within its township borders for rapid response. This setback, in our opinion, is not unreasonable for our rural areas and allows pipeline siting adequate to our township’s geography for placement.

It is noted that Scott Blixt was apprised before today’s meeting and in absence was in agreement with the setback being approved.

Dan seconded rolled called was called Dan yes Paul yes motion passed.

No further business meeting was adjourned.

consideration, in each case, of impact of those uses upon neighboring premises. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular District provided that due consideration is given to location, development and operation of such uses.

8.2.2 Public Hearing Notice

Shall be the same as the provisions set forth for public hearing notice for zoning District amendment in Section 8.1.1.

8.2.3 Public Hearings

Shall be the same as the provisions set forth for public hearing for Zoning District amendment in Section 8.1.2.

8.2.4 Data Submission Requirements

Shall be the same as the provisions set forth for data submission requirements for Zoning district amendment in Section 8.1.3.

8.2.5 Deliberation and Decision

Shall be the same as the provisions set forth for deliberation and decision for Zoning district amendment in Section 8.1.4.

8.2.6 Standards

No Application for conditional use shall be approved unless the zoning commission finds that all of the following conditions are present.

8.2.6.1 That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

8.2.6.2 That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.

8.2.6.3 That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

8.2.6.4 That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.

8.2.6.5 That adequate measures have been or will be taken to provide ingress

and egress so designed as to minimize traffic impact on the area.

8.2.6.6 That the conditional use shall substantially conform to all applicable regulations of the district in which it is located.

8.2.7 Conditions and Guarantees

8.2.7.1 Prior to the decision on any conditional use, the Zoning Commission may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the township and to secure compliance with the standards and requirements specified in Section 8.2.6. In all cases in which conditional uses are granted, the Zoning Commission shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

8.2.7.2 No alteration of a conditional use shall be permitted unless approved by the Zoning Commission. Where the Zoning Commission has approved or conditionally approved an application for a conditional use, such approval shall become null and void within 12 (twelve) months of the date of the Zoning Commission action unless the use is commenced, construction is Underway or the current owner possesses a valid building permit.

8.3 Variances

Variance from the terms of these regulations may be granted provided that the applicant establishes proof of practical difficulty or undue hardship.

8.3.1 Public Hearing Notice

The Zoning Commission shall hold a public hearing, a notice of which shall be published at least 15 (fifteen) days prior to the hearing in the official newspaper of the county. The notice of hearing shall include: (1) the time and place of hearing; (2) description of the property by street address for platted lands and clearly identifiable location for the unplatted lands; (3) the proposed use and requested zoning district change; (4) time and place for public inspection of the documents before the hearing.

8.3.2 Public Hearings

The Zoning Commission at the hearing shall listen to all persons who may speak in support of or in opposition to the proposal. Upon the completion of its review, it shall approve, deny or modify the proposal. The Zoning Commission may require additional information before it completes its findings and decision.

A Public Meeting of the Jackson Township Zoning Board was held January 20,2023 at 1:00 pm at the home of Dan Delahoyde, zoning chairman. Those present were Dan Delahoyde, Paul Mathews, and Valera Hayen. Purpose of the meeting was to discuss set back distance of hazardous pipelines installed hereafter, such as oil, gas, and CO2.

Discussion was held on proposed setback. Paul made the motion:

For Township Zoning purposes, hazardous pipelines in stalled hereafter, such as oil,gas and CO2 transmission lines, we adopt a half mile (2640 feet) from township inhabited residences of Jackson Township. This setback may be waived by the owner of the inhabited residence in writing.

The discussion on the proposed motion consisted and included of "promoting health, safety, morals, public convenience, general prosperity, and public welfare" of Jackson Township inhabited residences. Being Jackson Township has experienced prior oi pipeline (Keystone) where the applicant understood risks associated with it's installation and voluntarily complied with setbacks near 2000 feet and being other pipelines may carry tasteless-odorless gas, we recognize setback of 2640 feet as not oppressive since our township currently has no emergency services within its township borders for rapid response. This setback, in our opinion, is not unreasonable for our rural areas and allows pipeline siting adequate to our township's geography for placement.

It is noted that Scott Blixt was apprised before today's meeting and in absence was in agreement with the setback being approved.

Dan seconded rolled called was called Dan yes Paul yes motion passed.

No further business meeting was adjourned.

8.3.3 Data Submission Requirements

Petitions for variances shall be submitted with the following information.

8.3.3.1 Legal description of the area proposed to be rezoned, the name and addresses of all owners of property lying within one mile of the site.

8.3.3.2 A map showing the existing land uses and zoning district classification of the area.

8.3.3.3 A fee shall be paid in accordance with the schedule established by the Zoning Commission.

8.3.4 Deliberation and Decision

In making its finding, the Zoning Commission shall ascertain that the requests for variance is consistent with the township Comprehensive Plan and meets all requirements of these regulations and other regulations of the township.

8.3.5 Standards

No application for variance shall be approved unless the Zoning Commission finds that all of the following are present.

8.3.5.1 That special conditions and circumstances exist which are peculiar to the premises and which are not applicable to other premises in the same zoning district.

8.3.5.2 That literal interpretation of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.

8.3.5.3 That the special conditions and circumstances have not resulted from actions of the applicant.

8.3.5.4 That granting the variance requested will not confer upon the applicant any special privileges that are denied by these regulations to other premises.

8.3.6 Justification

8.3.6.1 That the reasons set forth in the application justify the granting of the variance.

8.3.6.2 The variance is the minimum which would make possible a reasonable use of the premises.

8.3.6.3 That the granting of variance will be in harmony with the general purpose of these regulations and will not be injurious to the surrounding premises, neighborhood or the city and will not be contrary to the comprehensive plan and the purposes of these regulations.

8.3.6.4 That there is practical difficulty or unnecessary hardship in use of the premises if the strict application of the regulations were to be carried out.

8.3.7 Authorized Variances

A variance shall not be granted for any yard or setback less than the yard or Setback as required by these regulations.

8.3.7.1 To reduce not by more than twenty percent (20%) the applicable requirements for lot area and lot width.

8.3.7.2 To reduce the applicable off-street parking or loading facilities by no more than fifty percent (50%) of the requirements.

8.3.7.3 To permit the use of lot of record if it is smaller than the minimum size required by these regulations.



8.3.7.4 To permit roof alterations to provide additional windows, headroom or area for occupancy of third level.

8.3.7.5 To permit conversion of an existing building to a permitted residential use provided that it shall not conflict with the above standards cited in Sections 8.3.5. and 8.3.6.

RESOLUTION

Whereas, the Township Zoning Commission has approved this amended Township Zoning Ordinance, and recommends it adopted by the Township Board of Supervisors.

Now and therefore, be it resolved that the Township Board of Supervisors hereby adopts Jackson Township Zoning Ordinance.

	<u>3-9-2009</u>
TOWNSHIP CLERK	DATE
	<u>3-9-2009</u>
CHAIRMAN	DATE



JACKSON TOWNSHIP

ORDINANCE FOR HAZARDOUS LIQUID PIPELINES

Sargent County, North Dakota

March 2009

**ORDINANCE FOR HAZARDOUS LIQUID PIPELINES
AN ORDINANCE GRANTING, A CORPORATION, ITS SUCCESSORS,
GRANTEES AND ASSIGNS THE NONEXCLUSIVE RIGHT, PRIVILEGE,
AUTHORITY AND FRANCHISE TO CONSTRUCT, OPERATE, MAINTAIN,
REMOVE, REPLACE, AND REPAIR EXISTING PIPELINE FACILITIES,
TOGETHER WITH EQUIPMENT AND APPURTENANCES THERETO, FOR
THE TRANSPORTATION OF PETROLEUM PRODUCTS AND
BYPRODUCTS WITHIN AND THROUGH THE TOWNSHIP OF JACKSON,
COUNTY OF SARGENT.**

Section 1. Definitions.

For the purposes of this Franchise and all exhibits attached hereto, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning.

1.1 “Construct or Construction” shall mean removing, replacing, and repairing existing pipeline and /or Facilities and may include, but is not limited to, digging and/or excavating for the purposes of removing, replacing and repairing existing pipeline and/or Facilities.

1.2 “Effective Date” shall mean the date designated herein, after passage, approval and legal publication of the ordinance and acceptance by grantee, upon which the rights, duties and obligations shall come in effect and the date from which the time requirement for any notice, extension and/or renewal will be measured.

1.3 “Facilities” shall mean the Grantee’s pipeline system, lines, valves, mains and appurtenances used to transport or distribute of Grantee’s petroleum product(s).

1.4 “Franchise” shall mean this Franchise and any amendment, exhibits, or appendices to the Franchise.

1.5 “Franchise Area” shall mean the area within the jurisdictional boundaries of the Grantor, including any areas annexed by Grantor during the term of this Franchise, in which case the annexed area shall become subject to the terms of this Franchise.

1.6 “Hazardous Substance” shall mean any hazardous, toxic, or dangerous substance, material, waste, pollutant, or contaminant. The term shall specifically include petroleum and petroleum products and their by-products, residue, and remainder in whatever form or state. The term shall also be interpreted to include any substance which, after release into the environment, will or may reasonably be anticipated to cause death, disease, injury, illness, behavior abnormalities or, genetic abnormalities.

1.7 “Maintenance or Maintain” shall mean examining, testing, inspecting, repairing, maintaining and replacing the existing pipeline(s) and/or Facilities or any part thereof as required and necessary for safe operation.

1.8 “Pipeline Corridor” shall mean the pipeline pathway through the Franchise Area in which the pipeline(s) and or Facilities of the Grantee are located, including any Rights-of-Way, Public Property, and/or easement over and through private property.

1.9 “Public Properties” shall mean the present and/or future property owned or leased by Grantor within the present and/or future corporate limits or jurisdictional boundaries of the Grantor.

1.10 “Operate or Operations” shall mean the use of Grantee’s existing pipeline(s) and/or Facilities for the transportation, distribution and handling of petroleum products or byproducts within the through the Franchise Area.

1.11 “Rights-of-Way” means the surface and the space above and below streets, roadways, highways, avenues, courts, lanes, alleys, sidewalks, easements, right-of-way and similar public property and areas located within the Franchise Area.

Section 2. Grant of Authority.

- 2.1 Grantor hereby grants to Grantee, a corporation organized and existing under and by virtue of the laws of the State of North Dakota, and which is authorized to transact business within the State of North Dakota its successors and assigns (as provided in Section 4), the right, privilege, authority and Franchise to Construct, Operate and Maintain its existing pipeline(s) and/or facilities necessary for the transportation, distribution and handling of any petroleum product or byproduct thereof, within the existing Pipeline Corridor passing through the Franchise Area.
- 2.2 This Franchise is non-exclusive, Grantor reserves all rights to its property, including, without limitation, the right to grant additional Franchises, easements, licenses and permits to others, provided that the Grantor shall not grant any other Franchise, license, easement or permit that would unreasonably interfere with Grantee’s permitted use under this Franchise. This Franchise shall in no manner prohibit the Grantor or limit its power to perform work upon its Right-of-Way, Public Properties or make all necessary changes, relocations, repairs, maintenance, establishment, improvement thereto, or from using any of the Rights-of-Way and Public Properties, or any part of them, as the Grantor may deem fit from time to time, including the dedication, establishment, maintenance and improvement of all new Rights-of-Way and other Public Properties of every type and description.
- 2.3 This Franchise is conditioned upon the terms and conditions contained herein and Grantee’s compliance with all applicable federal, state or other regulatory programs that currently exist or may hereafter be enacted by any regulatory agencies with jurisdiction over the Grantee.
- 2.4 By granting this Franchise, the Grantor is not assuming any risks or liabilities, which shall be solely and separately borne by Grantee. Grantee agrees and covenants to, at its sole cost and expense, take all necessary and prudent steps to protect, support, and keep safe from harm its pipeline(s) and/or Facilities, or any part thereof, when necessary to protect the public health and safety.
- 2.5 This Franchise is intended to convey only a limited right and interest. It is not a warranty of title or interest in Grantor’s Rights-of-Way or other Public Property. None of the rights granted herein shall affect the Grantor’s jurisdiction over its property, streets or Right-of-Way.

- 2.6 This Franchise does not and shall not convey any right to Grantee to install its Facilities on, under, over, across, or to otherwise use city owned or leased properties of any kind, either within or outside the Pipeline Corridor, other than existing public rights of way.
- 2.7 The limited rights and privileges granted under this Franchise shall not convey any right to Grantee to install any new pipeline(s) and/or Facilities without the express consent of Grantor.

Section 3. Term. Each of the provisions of this Franchise shall become effective upon the Effective Date, subject to Grantee's acceptance of the terms and condition of this Franchise and shall remain in effect for ten (10) years thereafter. Subsequently, and in accordance with renewal regulations, Zoning Board will consider renewing this Franchise, at the written request of Grantee, for an additional ten (10) year renewal period at any time within two (2) years before the end of the Franchise's original ten (10) year term, unless either party expresses its intention in writing to terminate this Franchise at the conclusion of the original ten (10) year term. Renewal must be requested no less than six months before expiration of the Franchise.

Section 4. Assignment and Transfer of Franchise.

- 4.1 This Franchise shall not be leased, assigned or otherwise alienated without the express consent of the Grantor by ordinance, which approval shall not be unreasonably withheld.
- 4.2 No transfer shall be approved unless the assignee or transferee has at least the legal, technical, financial, and other requisite qualifications to carry on the activities of the Grantee.
- 4.3 Any transfer or assignment of this Franchise without the prior written consent of the Township shall be void and result in revocation of the Franchise.

Section 5. Compliance with Laws and Standards.

- 5.1 In carrying out any authorized activities under the privileges granted herein, Grantee shall meet accepted industry standards and comply with all applicable laws of any governmental entity with jurisdiction over the pipeline and its operation. This shall include all applicable laws, rules and regulations existing at the Effective Date of this Franchise or that may be subsequently enacted by any governmental entity with jurisdiction over Grantee and/or the pipeline(s) and Facilities.
- 5.2 In the case of any conflict between the terms of this Franchise and the terms of Grantor's ordinances, code, regulations, standards and procedures, this Franchise shall govern.

Section 6. Construction and Maintenance.

- 6.1 All pipeline Construction, Maintenance or Operation undertaken by Grantee, upon Grantee's direction or on Grantee's behalf shall be completed in a workmanlike manner.
- 6.2 Except in the case of an emergency, prior to commencing any Construction and/or Maintenance work in the Franchise Area, the Grantee shall first file with the Grantor such detailed plans, specifications and profiles of the intended work as may be required by the Grantor. Grantor may require such additional information, plans intended work as may be required by the Grantor. Grantor may require such additional information, plans and/or specifications as are in Grantor's opinion necessary to protect the public health and safety during the Construction and/or Maintenance work and for the remaining term of this Franchise.
- 6.3 All Construction and/or Maintenance work shall be performed in conformity with the plans, maps and specifications filed with the Grantor, except in instances in which deviation may be allowed thereafter in writing pursuant to an application by the Grantee.
- 6.4 All pipe and other components of any Facilities used in Construction and/or Maintenance activities within the Franchise Area shall comply with applicable federal regulations, as from time to time amended.
- 6.5 Except in the event of an emergency, Grantee shall provide Grantor at least ten (10) calendar days written notice prior to any Construction and/or Maintenance, or other substantial activity, other than routine inspections and maintenance, by Grantee, its agents, employees or contractors on Grantee's pipeline(s) or Facilities with the Franchise Area.
- 6.6 Work shall only commence upon the issuance of applicable permits by Jackson Township, which permits shall not be unreasonably withheld or delayed.
- 6.7 Unless such condition or regulation is in conflict with a federal requirement, the Grantor may condition the granting of any permit or other approval that is required under this Franchise, in any manner reasonably necessary for the safe use and management of the public right-of-way or the Grantor's property including, by way of example and not limitation, bonding, maintaining proper distance from other utilities, protecting the continuity of pedestrian and vehicular traffic and protecting any Rights-of-Way improvements, private facilities and public safety.
- 6.8 Whenever necessary, after Constructing or maintaining any of Grantee's pipeline(s) or Facilities within the Franchise Area, the Grantee shall, without delay, and at Grantee's sole expense, remove all debris and restore the surface as nearly as possible to as good or better condition as it was in before the work began. Grantee shall replace any property corner monuments, survey reference or hubs that were

disturbed or destroyed during Grantee's work in the areas covered by this Franchise. Such restoration shall be done in a manner consistent with applicable codes and laws, under the supervision of the Grantor and to the Grantor's satisfaction and specifications. The restoration shall be done under a bond in an amount appropriate to guarantee adequate restoration.

- 6.9 Markers demarcating the pipeline's location shall be placed on the surface at least every mile as to provide clear warning of the presence of the pipeline but in a manner that does not interfere with trails or other public uses in that area. Additionally, Grantee shall place continuous underground markers demarcating the pipeline's location each time Grantee digs to the pipeline for any reason.
- 6.10 Upon acceptance of this Franchise by Grantee, the Grantee shall file and thereafter maintain at all times with the Grantor a survey depicting the location of the Pipeline Corridor within the Franchise Area as well as the approximate location of Grantee's pipeline(s) and Facilities within the Pipeline Corridor along with all other know utilities, landmarks, and physical features. When the city or third parties are engaged in work in the Pipeline Corridor, or within fifty (50) feet of the Pipeline Corridor, Grantee shall promptly respond to requests to locate the precise position of its Facilities. If the project is a city project, Grantee shall bear any costs associated with locating its Facilities.
- 6.11 Grantee shall also provide detailed as-built design drawings showing the size, depth and location of all pipes, valves, gauges, other service appurtenances and Facilities within the Franchise Area. It is understood that the location of the Facilities shall be verified by excavating if exact alignment is required. City agrees that it will comply with all state and federal laws prohibiting disclosure of Grantees drawings, maps, etc. to any third party.
- 6.12 Within thirty (30) days of completing any Maintenance or Construction, or any other substantial activity within the Franchise Area. The Grantee shall provide updated and corrected as-built drawings and a survey showing the location, depth and other characteristics of the Facilities within the Franchise Area.
- 6.13 Nothing in this Franchise shall be deemed to impose any duty or obligation upon Grantor to determine the adequacy or sufficiency of Grantee's plans and designs or to ascertain whether Grantee's proposed or actual construction, testing, maintenance, repairs, replacement or removal is adequate or sufficient or in conformance with the plans and specifications reviewed by Grantor.
- 6.14 Grantee shall be solely and completely responsible for workplace safety and safe working practices on its job sites within the Franchise Area, including safety of all persons and property during the performance of any work.

Section 7. Operations, Maintenance, Inspection, Testing.

- 7.1 Grantee shall operate, maintain, inspect and test its pipeline(s) and Facilities in the Franchise Area in full compliance with the applicable provisions of all federal, state and local laws, regulations and standards, as now enacted or hereafter amended, and any other future laws or regulations that are applicable to Grantee's pipeline(s) and Facilities, products and business operations.
- 7.2 If the Federal Office of Pipeline Safety or the state regulatory agency significantly decrease their staffs, or if any congressional or legislative study indicates that federal or state regulatory oversight has significantly decreased in effectiveness during the term of this Franchise, the Grantor and City agree to expeditiously negotiate new Franchise provisions that will provide the city with access to detailed information regarding testing and inspection such as would have been routinely submitted to the federal or state regulatory agencies under the regulations in effect at the time of the Effective Date. Grantee agrees to cover all costs incurred by City for expert assistance in interpreting the testing and inspection data. If Grantor and Grantee fail to agree upon new Franchise provisions, the issues shall be resolved through the Dispute Resolution provisions of Section 13.

Section 8. Encroachment Management.

- 8.1 Within ninety (90) days of entering into this Franchise, and on an annual basis thereafter, Grantee shall provide a written encroachment management plan that demonstrates how Grantee's pipeline(s) and/or Facilities are and will be protected against possible encroachment. This plan shall include at least the following: 1) education and one-call involvement as defined in Federal Regulations, and 2) and encroachment management processes demonstrating: a) Grantee's process for monitoring activity in or near the Pipeline Corridor; b) Grantee's field verification of the location of Facilities within the Pipeline Corridor; c) Grantee's encroachment tracking system; d) Grantee's review/coordination process for critical encroachments; e) control center notification of existing or active encroachments; and f) assertive protection of the pipeline Rights-of-Way.
- 8.2 Upon notification to Grantee of planned construction involving excavation or any activity that could abnormally load the pipeline, by either the township or any third party, within fifty (50) feet of Grantee's Pipeline Corridor, Grantee shall flag the precise location of its Facilities before the construction or activity commences, provide a representative to inspect the construction when it commences, and periodically inspect thereafter to ensure that Grantee's Pipeline is not damaged by the construction or activity.

Section 9. Leaks, Spills, Ruptures and Emergency Response.

- 9.1 Grantee shall have in place, at all times during the term of this Franchise, a system for remotely monitoring pressures and flows across the Franchise Area. The remote monitoring must be able to accurately detect pipeline ruptures.

- 9.2 During the term of this Franchise, Grantee shall have a written emergency response plan and procedure for locating leaks, spills, and ruptures and for shutting down valves as rapidly as possible.
- 9.3 Upon acceptance of this Franchise, Grantee shall provide, for Grantor's approval and acceptance, a copy of its emergency response plans and procedures, including, but not limited to, emergency response for spills or leaks. If the parties disagree as to the adequacy of Grantee's emergency response plan, the parties will submit the plan to independent, third party review. If the review recommends that Grantee make modifications or additions to Grantee's emergency response plan, Grantee covenants to consider said recommendations in good faith. If Grantee declines to follow the recommendations, Grantee shall provide a written report to the Grantor explaining its reasoning for not following said recommendations. The parties agree to comply with the dispute resolution provisions contained herein to resolve any dispute over the whether to follow the recommendations.
- 9.4 Grantee's emergency plans and procedures shall designate Grantee's responsible local emergency response officials and a direct 24-hour emergency contact number for control center operator. Grantee shall, after being notified of an emergency, cooperate with the Grantor and make every effort to respond as soon as possible to protect the public's health, safety and welfare.
- 9.5 The parties agree to meet annually to review the emergency plans and procedures. Grantee shall coordinate this meeting with the Grantor.
- 9.6 Grantee shall be solely responsible for all necessary costs incurred by township, county, special district or state agencies in responding to any rupture, spill, or leak from Grantee's pipeline(s) and/or Facilities, including, but not limited to, detection and removal of any contaminants from air, earth or water, and all actual remediation costs. This section shall not limit Grantees rights or causes of action against any third party or parties who may be responsible for a leak, spill or other release of hazardous liquid from Grantees pipeline, including such third parts insurers.
- 9.7 In addition to the notification requirements in the emergency response plan, Grantee shall notify Grantor of any uncontained leak, spill or rupture, outside of a vault or pump station, of petroleum product from its pipeline(s) and/or Facilities within or affecting the Franchise Area totaling one (1) barrel or more with one (1) business day of its observation or detection.
- 9.8 If requested by Grantor in writing, Grantee shall follow-up this notice within thirty (30) days with a written summary of the event, including, but not limited to, the leak, spill, or rupture's date, time, amount, location, response, remediation and other agencies Grantee has notified.
- 9.9 In the event of an uncontained leak, spill or rupture from Grantee's pipeline(s) and/or Facilities affecting the Franchise Area of ten (10) barrels or more, where the cause

is not reasonably apparent, and where federal or state regulators do not investigate, the Grantor may demand that the occurrence be investigated by an independent pipeline consultant selected by Grantor. Grantee shall be solely responsible for paying all of the consultant's costs and expenses incurred in investigating the occurrence and reporting the findings. Grantee shall meet and confer with the independent consultant following the consultant's investigation to address whether any modifications or additions to Grantee's pipeline(s) and/or Facilities may be warranted. In cases where federal or state regulators do perform an investigation, Grantee agrees to share the results of that investigation with the city within (60) days.

- 9.10 If the consultant recommends that Grantee make modifications or additions to Grantee's pipeline(s) and/or Facilities, Grantee covenants to consider said recommendations in good faith. If Grantee declines to follow the consultant's recommendations, Grantee shall provide a written report to the Grantor explaining its reasoning for not following said recommendations. The parties agree to comply with the dispute resolution provisions contained herein to resolve any dispute over the whether to follow the consultant's recommendations.

Section 10. Relocation.

- 10.1 Grantor shall provide Grantee with copies of pertinent portions of the plans and specifications for the improvement project. Upon request, Grantee shall, at its cost and expense, determine and identify for Grantor the exact location of its pipeline(s) and Facilities potentially affected by the improvement project.
- 10.2 Grantee may, after receipt of written notice requesting a relocation of its Facilities, submit to the Township written alternatives to the relocation within forty five (45) calendar days of receiving the plans and specifications. The Township shall evaluate the alternatives and advise Grantee in writing if one or more of the alternatives is suitable to accommodate the work that would otherwise necessitate relocation of the Facilities. If requested by the Township, Grantee shall submit additional information to assist the Township in making the evaluation. The Township shall give each alternative proposed by Grantee full and fair consideration but retains full discretion to decide for itself whether to utilize its original plan or an alternative proposed by Grantee. IN the event the Township ultimately determines that there is no other reasonable alternative, Grantee shall relocate its Facilities as proposed by the Township.
- 10.3 If an improvement project under section is required in the interest of public health, safety, welfare, necessity or convenience, as adjudged in the sole discretion of the Grantor, the Grantee shall make such changes as required herein at Grantee's sole cost, expense and risk.

- 10.4 Grantor shall work cooperatively with Grantee in determining a viable and practical route within which Grantee may relocate its Facilities, in order to minimize costs while meeting Grantor's project objectives.
- 10.5 Grantee shall complete relocation of its Facilities so as to accommodate the improvement project at least ten (10) calendar days prior to commencement of the improvement project or such other time as the parties may agree in writing.

Section 11. Removal, Abandonment in Place.

- 11.1 In the event of Grantee's permanent cessation of use of its pipeline(s) and/or Facilities, or any portion thereof, within the Franchise Area, the Grantee shall, within one hundred and eighty days (180) after the cessation of use, remove the pipeline, Facilities or any portion thereof.
- 11.2 In the event of the removal of all or a portion of the pipeline(s) or Facilities, Grantee shall restore the Franchise Area to as good or better condition as it was in before the work began.
- 11.3 Removal and restoration work shall be done at Grantee's sole cost and expense and to Grantor's reasonable satisfaction. Grantee shall be responsible for any environmental review required for the removal of any pipeline(s) and/or Facility and the payment of any costs of the environmental review.
- 11.4 If Grantee is required to remove its pipeline(s) and/or Facilities and fails to do so and/or fails to adequately restore the Franchise Area or other mutually agreed upon action(s), Grantor may, after reasonable notice to Grantee, remove the pipeline(s) and/or Facilities, restore the premises and/or take other action as is reasonably necessary at Grantee's expense. This remedy shall not be deemed to be exclusive and shall not prevent the Township from seeking a judicial order directing that the Facilities be removed.
- 11.5 The parties expressly agree that this provision of this Section shall survive the expiration, revocation or termination of this Franchise.

Section 12 Violations, Remedies and Termination.

- 12.1 In addition to any rights set out elsewhere in the Franchise, or other rights it may possess at law or equity, the Grantor reserves the right to apply any of the following remedies, alone or in combination, in the event Grantee violates any material provision of this Franchise. The remedies provided for in this Franchise are cumulative and not exclusive; the exercise of one remedy shall not prevent the exercise of another, or any rights of the Grantor at law or equity.
- 12.2 If Grantee fails or refuses to comply with this Franchise, or any of its terms or provisions, the damages suffered by the Grantor as a result may include, without

limitation, increased costs of administration and other damages difficult to measure. Therefore, Grantor and the Grantee agree that liquidated damages up to one thousand dollars (\$1,000) per day, per incident or other measure of violation, may be assessed from the first day of the violation or incident. These damages represent both parties' best estimate of the damages resulting from the specified injury. The imposition of liquidated damages will invoke the dispute resolution provisions as provided in this Franchise.

- 12.3 Grantor may also terminate this Franchise if Grantee materially breaches or otherwise fails to perform, comply with or otherwise observe any of the terms and conditions of this Franchise, or fails to maintain all required licenses and approvals from federal, state, and local jurisdictions, and fails to cure such breach or default within thirty (30) calendar days of Grantor's providing Grantee written notice thereof, or, if not reasonably capable of being cured within thirty (30) calendar days, within such other reasonable period of time as the parties may agree upon.
- 12.4 This Franchise shall not be terminated except upon a majority vote of the full membership of the City Council, after reasonable notice to Grantee and an opportunity to be heard, provided that if exigent circumstances necessitate immediate termination, the hearing may be held as soon as possible after the termination.
- 12.5 In the event of termination under this Franchise, Grantee shall immediately discontinue operation of the pipeline through the Franchise Area. Either party may in such case invoke the dispute resolution provisions herein. Alternatively, Grantor may elect to seek relief directly in Superior Court, in which case the dispute resolution requirements shall not be applicable in this limited situation. Once the Grantee's rights to Operate in the Franchise Area have terminated, Grantee shall comply with Franchise provision regarding removal and/or abandonment of Facilities.
- 12.6 Grantor's failure to exercise a particular remedy at any time shall not waive Grantor's right to terminate, assess penalties, or assert that or any other remedy at law or equity for any future breach or default of Grantee.
- 12.7 Termination of the Franchise shall not release Grantee from any liability or obligation with respect to any matter occurring prior to such termination, nor shall such termination release Grantee from any obligation to remove or secure the pipeline pursuant to this Franchise and to restore the Franchise Area.
- 12.8 The Parties acknowledge that the covenants set forth herein are essential to this Franchise, and, but for the mutual agreements of the parties to comply with such covenants, the parties would not have entered into this Franchise. The parties further acknowledge that they may not have an adequate remedy at law if the other party violates such covenant. Therefore, the parties shall have the right, in addition to any other rights they may have, to obtain in any court of competent jurisdiction

injunctive relief to restrain any breach or threatened breach or otherwise to specifically enforce any of the covenants contained herein should the other party fail to perform them.

Section 13 Dispute Resolution

- 13.1 In the event of a dispute between Grantor and Grantee arising by reason of this Franchise, the dispute shall first be referred to the operational officers or representatives designated by Grantor and Grantee to have oversight over the administration of the Franchise. The officers or representatives shall meet within thirty (30) calendar days of either party's request for a meeting, whichever request is first, and the parties shall make a good faith effort to attempt to achieve a resolution of the dispute.
- 13.2 In the event that the parties are unable to resolve the dispute under the procedure set forth in this section, then the parties hereby agree that the matter shall be referred to mediation. The parties shall mutually agree upon a mediator to assist them in resolving their differences. If the parties are unable to agree upon a mediator, the parties shall jointly obtain a list of seven (7) mediators from a reputable dispute resolution organization and alternate striking mediators on the list until one remains. A coin shall determine who may strike the first name. If a party fails to notify the other party of which mediator it has stricken within two (2) business days, the other party shall have the option of selecting the mediator from those mediators remaining on the list. Any expenses incidental to mediation shall be borne equally by the parties.
- 13.3 If the parties fail to achieve a resolution of the dispute through mediation, either party may then pursue any available judicial remedies, provided that if the party seeking judicial redress does not substantially prevail in the judicial action, it shall pay the other party's reasonable legal fees and costs incurred in the judicial action.

Section 14 Indemnification

- 14.1 General Indemnification. Grantee shall indemnify, defend and hold harmless Grantor from any and all liability, loss, damage, cost, expense, and claim of any kind, including reasonable attorneys' and experts' fees incurred by Grantor in defense thereof, arising out of or related to, directly or indirectly, the installation, construction, operation, use, location, testing, repair, maintenance, removal, or abandonment of Grantee's pipeline(s) and/or Facilities, or from the existence of Grantee's pipeline and other appurtenant Facilities, and the products contained in, transferred through, released or escaped from said pipeline and appurtenant Facilities, including the reasonable costs of assessing such damages and any liability for costs of investigation, abatement, correction, cleanup, fines, penalties, or other damages arising under any environmental laws. If any action or proceeding is brought against Grantor by reason of the pipeline(s) or its appurtenant Facilities, Grantee shall defend the Grantor at the Grantee's complete expense, provided that,

for uninsured actions or proceedings, defense attorneys shall be approved by Grantor, which approval shall not be unreasonable withheld.

- 14.2 Environmental Indemnification. Grantee shall indemnify, defend and save Grantor harmless from and against any and all liability, loss, damage, expense, actions and claims, either at law or in equity, including, but not limited to, costs and reasonable attorneys' and experts' fees incurred by Grantor in defense thereof, arising directly or indirectly from (a) Grantee's breach of any environmental laws applicable to the pipeline or (b) from any release of a hazardous substance on or from the pipeline or (c) other activity related to his Franchise by Grantee, its agents, contractors or subcontractors. This indemnity includes but is not limited to (a) liability for a governmental agency's costs of removal or remedial action for hazardous substances; (b) damages to natural resources caused by hazardous substances, including the reasonable costs of assessing such damages; (c) liability for any other person's costs of responding to hazardous substances; (d) liability for any costs of investigation, abatement, correction, cleanup, fines, penalties, or other damages arising under any environmental laws; and (e) liability for personal injury, property damage, or economic loss arising under any statutory or common-law theory.

Section 15 Insurance and Bond Requirements .

- 15.1 During this Franchise, Grantee shall provide and maintain, at its own cost, insurance in the minimum amount of ONE HUNDRED MILLION UNITED STATES DOLLARS (\$100,000,000.00) for each occurrence, in a form and with a carrier reasonably acceptable to the Grantor, naming Grantor as an additional insured, to cover any and all insurable liability, damage, claims and loss as set forth in Section 13.1 above, and, to the extent such coverage is reasonably available in the commercial marketplace, all liability, damage, claims and loss as set forth in Section 13.2 above, except for liability for fines and penalties for violation of environmental laws as otherwise provided below. Insurance coverage shall include, but is not limited to, all defense costs. Such insurance shall include, but is not limited to, pollution liability coverage, at a minimum covering liability from sudden and accidental occurrences, subject to time element reporting requirements, and such other applicable pollution coverage as is reasonably available in the commercial marketplace.
- 15.2 Proof of insurance and a copy of the insurance policy, including, but not limited to, coverage terms and claims procedures, shall be provided to the Grantor prior to the beginning of any substantial work, testing or construction or reconstruction on the Pipeline. Said insurance shall contain a provision that it shall not be canceled without a minimum of thirty (30) days prior written notice to the Grantor.
- 15.3 On or before the Effective Date of this Franchise, the Grantee shall furnish a bond executed by the Grantee and a corporate surety authorized to do a surety business in the State of North Dakota, with an AM Best rating of A XII in a sum to be set and approved by the Grantor as sufficient to insure performance of the Grantee's

obligations and performance under this Franchise, such bond to be conditioned that the Grantee shall well and truly keep and observe all of the covenants, terms and conditions and faithfully perform all of the Grantee's obligations under this Franchise.

15.4 The Indemnity, insurance and bond provisions contained herein shall survive the termination of this Franchise and shall continue for as long as the Grantee's Facilities shall remain in or on the Franchised Areas or until the parties execute a new Franchise Agreement which modifies or terminates these indemnity, insurance and bond provisions.

Section 16. Receivership and Foreclosure.

16.1 Grantee shall immediately notify the Grantor in writing if it: files a voluntary petition in bankruptcy, a voluntary petition to reorganize its business, or a voluntary petition to effect a plan or other arrangement with creditors; files an answer admitting the jurisdiction of the Court and the material allegations of an involuntary petition files pursuant to the Bankruptcy Cod, as amended; or is adjudicated bankrupt, makes an assignment for the benefit of creditors, or applies for or consents to the appointment of any receiver or trustee of all or any part of its property including all or any parts of its business operations, pipeline(s) or Facilities within or affecting the Franchise Area.

16.2 Upon the foreclosure or other judicial sale of all or a substantial part of Grantee's business operations, pipeline(s) or Facilities within or affecting the Franchise Area, or upon the termination of any lease covering all or a substantial part of the pipeline(s) or Facilities within or affecting the Franchise Area, or upon the occasion of additional events which effectively cause termination of Grantee's rights or ability to operate the pipeline(s) of Facilities within or affecting the Franchise Area, Grantee shall notify the Grantor of such fact, and such notification or the occurrence of such terminating events shall be treated as a notification that a change in control of the Grantee has taken place, and the provisions of this Franchise Agreement governing the consent of the Grantor to such change in control of the Grantee shall apply.

16.3 The Grantor shall have the right to cancel this Franchise one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of a Grantee, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless: a) Within one hundred twenty (120) days after the election or appointment, such receiver or trustee shall have fully complied with all of the provisions of this Franchise Agreement and remedied any existing violations and /or defaults; and b) Within said one hundred twenty (120) days, such receiver or trustee shall have executed an agreement, duly approved by the court having jurisdiction, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Franchise Agreement granted to the Grantee except where expressly prohibited by North Dakota law.

Section 17. Legal Relations.

17.1 Nothing contained in this Franchise shall be construed to create an association, trust, partnership, agency relationship, or joint venture or to impose a trust, partnership, or agency duty, obligation or liability on or with regard to any party. Each party shall be individually and severally liable for its own duties, obligations, and liabilities under this Franchise.

17.2 Grantee accepts any privileges granted by Grantor to the Franchise Area, public Rights-of-Way and other Public Property in an "as is" condition. Grantee agrees that the City has never made any representations, implied or express warranties or guarantees as to the suitability, security or safety of Grantee's location of facilities or the facilities themselves in public property or right of way or possible hazards or dangers arising from other uses of the public rights of way or other public property by the City or the general public. Grantee shall remain solely and separately liable for the function, testing, maintenance, replacement and/or repair of the pipeline or other activities permitted under this Franchise.

17.3 Grantee waives immunity under Title 51 RCW in any cases involving the Grantor and affirms that the Grantor and Grantee have specifically negotiated this provision, to the extent it may apply.

17.4 This Franchise shall not create any duty of the Township or any of its officials, employee or agents and no liability shall arise from any action or failure to act by the Township or any of its officials, employees or agents in the exercise of powers reserved to the Grantor. Further, this ordinance is not intended to acknowledge, create, imply or expand any duty or liability of the Grantor with respect to any function in the exercise of its police power or for any other purpose. Any duty that may be deemed to be created in the Township shall be deemed a duty to the general public and not to any specific party, group or entity.

17.5 This Franchise shall be governed by, and construed in accordance with, the laws of the State of North Dakota and the parties agree that in any action, except actions based on federal questions, venue shall lie exclusively in Sargent County, North Dakota.

Section 18: Miscellaneous.

18.1 In the event that a court or agency of competent jurisdiction declares a material provision of this Franchise Agreement to be invalid, illegal or unenforceable, the parties shall negotiate in good faith and agree, to the maximum extent practicable in light of such determination, to such amendments or modifications as are appropriate actions so as to give effect to the intentions of the parties as reflected herein. If severance from this Franchise Agreement of the particular provision(s) determined to be invalid, illegal or unenforceable will fundamentally impair the value of this Franchise Agreement. Either party may apply to a court of competent jurisdiction to reform or reconstitute the Franchise Agreement so as to recapture the original intent of said particular provision(s).

All other provisions of the Franchise shall remain in effect at all times during which negotiations or a judicial action remains pending.

18.2 Whenever this Franchise sets forth a time for any act to be performed, such time shall be deemed to be of the essence, and any failure to perform within the allotted time may be considered a material violation of this Franchise.

18.3 In the event that Grantee is prevented or delayed in the performance of any of its obligations under this Franchise by reason(s) beyond the reasonable control of Grantee, then Grantee's performance shall be excused during the Force Majeure occurrence. Upon removal or termination of the Force Majeure occurrence the Grantee shall promptly perform the affected obligations in an orderly and expedited manner under this Franchise or procure a substitute for such obligation or performance that is satisfactory to Grantor. Grantee shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.

18.4 The Section headings in this Franchise are for convenience only, and do not purport to and shall not be deemed to define, limit, or extend the scope or intent of the Section to which they pertain.

18.5 By entering into this Franchise, the parties expressly do not intend to create any obligation or liability, or promise any performance to , any third party, nor have the parties created for any third party any right to enforce this Franchise.

18.6 This Franchise and all of the terms and provisions shall be binding upon and inure to the benefit of the respective successors and assignees of the parties.

18.7 Whenever this Franchise calls for notice to or notification by any party, the same (unless otherwise specifically provided) shall be in writing and directed to the recipient at the address set forth in this Section, unless written notice of change of address is provided to the other party. If the date for making any payment or performing any act is a legal holiday, payment may be made or the act performed on the next succeeding business day which is not a legal holiday.

Notices shall be directed to the parties as follows:

To the Grantor:

To Grantee:

18.8 The parties each represent and warrant that they have full authority to enter into and to perform this Franchise, that they are not in default or violation of any permit, license, or similar requirement necessary to carry out the terms hereof, and that no further approval, permit, license, certification, or action by a governmental authority is required to execute and perform this Franchise, except such as may be routinely required and obtained in the ordinary course of business.

18.9 This Franchise Agreement and the attachments hereto represent the entire understanding and agreement between the parties with respect tot the subject matter and it supersedes all prior oral negotiations between the parties. This Franchise Agreement can be amended, supplemented, modified or changed only by an agreement in writing which makes specific reference to the Franchise Agreement or the appropriate attachment and which is signed by the party against whom enforcement of any such amendment, supplement, modification or change is sought. All previous Franchise Agreements between the parties pertaining to Grantee's Operation of its pipeline(s) and/or Facilities are hereby superseded.

18.10 Grantee shall, within thirty (30) days after passage of the Ordinance, file with the Township Clerk, its unconditional written acceptance of all the terms and conditions of this Franchise. If Grantee shall fail to so file its written acceptance within such period, then the rights and privileges granted hereunder shall be deemed forfeited.

18.11 The Effective Date of the Franchise shall be the 9th day of March, 2009, after passage, approval and legal publication of this Ordinance as provide by law, and provided it has been duly accepted by Grantee as herein above provided.

RESOLUTION

Now and therefore, be it resolved that the Township Board of Supervisors hereby adopts Jackson Township ordinance for hazardous liquid pipelines.

Robert Anderson
TOWNSHIP CLERK

3-9-2009
DATE

Paul McRae
CHAIRMAN

3-9-2009
DATE