Stearns County

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

6-7-2018

Drafted By:
Lynden Township
21367 County Road 44
Clearwater MN 55320
Table of Contents

SECTION 1: GENERAL PROVISIONS. ........................................................... 1  
Section 100. Title. ........................................................................................... 1  
Section 101. Statutory Authorization. ............................................................ 1  
Section 102. Words and Terms Defined. ....................................................... 1  
Section 103. Adoption by Reference. ............................................................ 2  
Section 104. Jurisdiction. .............................................................................. 2  
Section 105. Interpretation. ......................................................................... 2  
Section 106. Severability. .......................................................................... 3  
Section 107. Repealer .................................................................................. 3  

SECTION 2: TOWNSHIP ACCESS STANDARDS .................................... 3  
Section 200. General Access Standards. ..................................................... 3  
Section 201. New Access Spacing Standards. ............................................. 3  
Section 202. Access Width Standards. ......................................................... 4  
Section 203. Driveway Access Standard. ...................................................... 4  

SECTION 3: ACCESS AND STORM WATER MANAGEMENT FOR PLATTED SUBDIVISIONS .......................................................... 4  
Section 300. New Driveways. ....................................................................... 4  

SECTION 4: LYNDEN TOWNSHIP ROAD SPECIFICATIONS AND STANDARDS .......................................................... 5  
Section 400. Design Specifications. ............................................................... 5  
Section 401. Construction Specifications. ..................................................... 5  
Section 402. Drainage and Erosion Standards ........................................... 5  
Section 403. Engineering and Maintenance Standards. ............................ 6  
Figure 1. RESIDENTIAL STREET Cross-Section ....................................... 7  
Figure 2. COMMERCIAL / INDUSTRIAL STREET Cross-Section .............. 8  

SECTION 5: TOWNSHIP ADDRESSING SIGN SPECIFICATIONS AND STANDARDS ......................................................... 9  
Section 500. Township Actions. .................................................................. 9  
Section 501. Prohibited Acts. .................................................................... 9  

SECTION 6: TOWNSHIP RIGHT-OF-WAY REGULATIONS ..................... 9  
Section 601. Purpose. ............................................................................... 9  
Section 602. Intent. .................................................................................. 9  
Section 603. Interpretation. ...................................................................... 10  
Section 604. Permit Required. .................................................................. 10  
Section 605. Bonds/Letter Of Credit .......................................................... 10  
Section 606. Privately Owned Utility ......................................................... 10
Stearns County
Lynden Township
ORDINANCE #12

Lynden Township Road and Right-of-Way Specifications

The Town Board of Lynden Township ordains as follows:

SECTION 1: GENERAL PROVISIONS.

Section 100. Title.

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


A. This Ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapters 365, 366 and 462; or its successor statutes.

B. Lynden Township Board (“Township”) has general authority to adopt ordinances intended to protect the public’s health, safety, and welfare as provided in Minnesota Statutes (“M.S.”) § 365.10, Subd. 17, or its successor statutes.

Section 102. Words and Terms Defined.

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

A. **Owner** means an individual, association, syndicate, partnership, corporation, limited liability company, trust or any other legal entity holding an equitable or legal ownership interest in land, buildings, structures, dwelling unit(s) or other property.

B. **Person** means a natural person of either sex, a firm, partnership, corporation, limited liability company, any other association of people, and includes the manager or agent of that person or organization.

C. **Ditch** means the area of road right-of-way between the edge of the gravel or bituminous top and the property line.

D. **Days** means calendar days.

E. **Board** or **Township Board** means the Lynden Township Board of Supervisors.

F. **Planning Commission** means the Lynden Township Planning Commission.

G. **Board of Adjustment** means the Lynden Township Board.

H. **Approach** means the area of the Right of Way between the traveled surface of the road and the adjacent property that is intended to provide access for vehicles or equipment from the road to the adjacent property.
I. **Headwall** means rock, concrete, masonry, metal, timber, or other similar materials placed on the sides of an approach as support, to prevent erosion, or for decorative purposes.

J. **Junk** means old or scrap hazard signs, copper, brass, rope, rags, batteries, paper, synthetic or organic, trash, garbage, waste materials, rubbish, rubber debris, appliances, waste, or junked, dismantled, or wrecked automobiles or farm or construction machinery or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

K. **Right of Way** ("R.O.W.", “ROW”) means the area on, below, or above the public roadway, bicycle lane, and public sidewalk in which the town has an interest, including for travel purposes and utility and drainage easement.

L. **County** mean Stearns County.

M. The word “shall” is mandatory and not discretionary.

N. The word “may” is permissive.

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

P. Administrative or Agency Rules, Federal or State Statutes, County or Township Ordinances shall be the current version cited or its successor rule, statute, or ordinance.

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

**Section 103. Adoption by Reference.**

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

**Section 104. Jurisdiction.**

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

**Section 105. Interpretation.**

In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in accordance with the underlying policies of the Township and shall not be deemed a limitation or repeal of any other powers granted by State Statute. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, code, statute, resolution or regulation, the regulations which are more restrictive or impose higher standards or requirements shall prevail.
Section 106. Severability.

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

Section 107. Repealer.

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

SECTION 2: TOWNSHIP ACCESS STANDARDS

Section 200. General Access Standards.

A. All accesses onto a Township road shall be aligned to be straight and perpendicular to the centerline of the adjacent Township roadway within the limits of the Township right of way.
B. When the opportunity exists, access locations will be directed onto roadways with a lower functional classification.
C. All underground cables, wires, utilities, gas or pipelines, or trees, shrubs, and other vegetation or structures including but not limited to statues, monuments, signs, entrance medians (divided entrances), fencing, etc., shall be placed or constructed outside of the permanent Township right of way. Any deviation from this may require an encroachment agreement with the township at the township's discretion.
D. Driveways will be aligned with driveways on the opposing side of the roadway, if possible.
E. Culverts, where needed as determined by the Township, that are constructed or placed within the Township right of way as part of a driveway should be specified as a minimum of fifteen (15) inches in diameter. Culverts shall be installed at the expense of the property owner and conform to current MNDOT specifications.
F. Driveways may be shared between adjacent properties / parcels when required by traffic volume and/or geographical layout.
G. Only one (1) driveway per property / parcel will be allowed, except one additional access point may be allowed in the Industrial zone with non-residential uses and the R-5, R-10, or A-40 zoning districts on parcels of two (2) or more acres with an approved site plan.
H. Plans for new driveways shall be submitted to the Lynden Township Board, Lynden Township Building Official, or Road Manager for review and approval prior to issuance of a permit.

Section 201. New Access Spacing Standards.

Each new driveway onto Township roads may be separated from adjacent accesses according to the following standards:
A. Collector roads, accesses on the same side of the road shall be located at a minimum of three hundred (300) feet (County Roads 143, 145, 146, 44, 45, 75).
B. Driveways onto Township roads shall have a minimum separation distance of one hundred twenty-five (125) feet unless the front footage of the lots dictates other.
C. Field accesses will be spaced on a one (1) access per forty (40) acre frontage.
D. Separation distances, within Sections A, B, and C, supra, may be modified by recommendation of the Lynden Township Board, Planning Commission, or Building Official due to parcel size, roadway / street access geometrics and/or proposed use of street.

Section 202. Access Width Standards.

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

Section 203. Driveway Access Standards.

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

SECTION 3: ACCESS AND STORM WATER MANAGEMENT FOR PLATTED SUBDIVISIONS

Section 300. New Driveways.

New driveways for subdivisions that access Township streets/roads shall be subject to the following standards:
A. A right-of-way (“ROW”) exaction for highway purposes (controlled access) will be required from subdivision properties located adjacent to Township roadways. The width of the access will be based on the functional classification of the adjacent roadway. Township ROW is thirty-three (33) feet from the centerline of the road.
B. Preliminary and Final plats will be reviewed by the Town Board or Planning Commission and/or Township Engineer with respect to access and/or street access locations, geometrics and storm water management.
C. Proposed access locations shall be clearly indicated on the preliminary plat or accompanying documents.
D. The plat shall provide for dedicated rights of access to the Township for areas adjacent to the Township right of way.
E. Developments with less than six (6) building sites may be required to provide common shared accesses at least through the Township’s right of way. One (1) access may serve a minimum of two (2) homes or parcels, consistent with this ordinance.
F. Developments with six (6) or more building sites shall be required to provide a common shared access to the entire subdivision.
G. No additional drainage shall be allowed into the Township Road right of way. Predevelopment and post-development runoff shall balance. Water shall be managed on site through infiltration. A drainage impact study will be required if subdivision drainage flows to the Township right of way. If the drainage study indicates significant increases in drainage to the Township right of way, the developer will analyze capacity of the existing drainage system (See Stearns County Ordinances #439 Section 7.25 and #230 Section 9.3.4, or its successor Ordinances).
SECTION 4: LYNDEN TOWNSHIP ROAD SPECIFICATIONS AND STANDARDS

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

Section 400. Design Specifications.

A. As illustrated within Figure 1, a minimum road right of way of sixty-six (66) feet for residential areas and as illustrated within Figure 2, a minimum road right of way of eighty (80) feet for commercial and industrial areas is required.

B. As illustrated within Figure 1, a minimum finished roadway top width of twenty-eight (28) feet for residential areas and as illustrated within Figure 2, a minimum top width of thirty-six (36) feet for commercial and industrial areas, which includes driving surface width and shoulders is required.

C. Roadway shall be built to a minimum of thirty (30) MPH design speed in residential areas and a fifty-five (55) MPH design in other areas.

D. All dead end roads shall have a minimum right of way of one hundred twenty (120) feet diameter and surface diameter of ninety (90) feet for a turnaround.

E. Further design specification are delineated and illustrated within Figures 1 and 2, respectively, for Residential and Commercial roadways.

Section 401. Construction Specifications.

A. A minimum ditch separation shall be two (2) feet below finished grade, and a minimum ditch width of six (6) feet, when conditions allow.

B. A minimum slope ratio for in-slopes shall be 4:1 and back-slope shall be 4:1.

C. A plant mix bituminous surface shall be tested and placed in accordance with MNDOT Specifications. This surface shall be twenty-four (24) feet wide and have a compacted bituminous thickness of three (3) inches for residential areas and twenty-eight (28) feet wide and have a minimum compacted bituminous thickness of four (4) inches for commercial and industrial areas.

Section 402. Drainage and Erosion Standards.

A. All roads shall be built to be free of drainage problems.

B. All apparent snow traps shall be eliminated.

C. All roads shall be built to be free of potential or real flooding.

D. All roads shall be constructed to handle a ten (10) year frequency storm and the design should be reviewed for a fifty (50) and one hundred (100) year frequency storm assessment.

E. All topsoil removed for construction shall be replaced on road inslopes, backslopes, and ditch bottoms, covered with four inches of black dirt and shall be seeded with MnDOT roadside seeding specification.

F. Culverts under a township road shall be placed to maintain drainage required. All culverts shall be a minimum diameter of twenty-four (24) inches, as per MnDOT specifications.

G. All projects must be constructed to comply with MPCA’s NPDES Construction General Permit.
Section 403. Engineering and Maintenance Standards.

A. All roads shall be subject to inspection and acceptance by the Township Board and the Township Engineer for compliance with the above requirements. The Township Board will not accept any Road dedications by private owners until all conditions of the above specifications have been met.

B. The Township Board reserves the right to test bore the finished product for depth, content and aggregate sieve analysis at the developer’s expense.

C. The Township shall not be responsible for shrubs, trees, flowers, or any other personal property within the one hundred-twenty (120) foot right-of-way, cleared diameter of turnarounds.

D. A new road may be accepted by the Township only after a two (2) year period commencing with the acceptance by the Township Engineer. No maintenance will be performed by the Township before this acceptance. Crack-filling and other maintenance deficiencies may be required to be corrected by the landowner or developer prior to the acceptance of new township roads.
Figure 1. RESIDENTIAL STREET Cross-Section

TYPICAL SECTION
BITUMINOUS STREET

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

INSET A

1.5" TYPE SP 9.5 WEARING COURSE MIXTURE (3:C) (SPMEA340C)
BITUMINOUS TACK COAT
1.5" TYPE SP 12.5 WEARING COURSE MIXTURE (3:C) (SPMEB340C)
6" AGGREGATE BASE, CLASS S
MIN. 10" SUBGRADE BACKFILL WITH GRANULAR MATERIAL, MNDOT 3149.20
GEOTEXTILE FABRIC, MNDOT TYPE B, NONWOVEN
COMPACTED SUBGRADE
Figure 2. COMMERCIAL / INDUSTRIAL STREET Cross-Section

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

INSET A

- 2" TYPE SP 9.5 WEARING COURSE MIXTURE (3:1) (SPWEA3400)
- BITUMINOUS TACK COAT
- 2" TYPE SP 12.5 WEARING COURSE MIXTURE (3:1) (SPWEB3400)
- 6" AGGREGATE BASE, CLASS 5
- MIN. 15" SUBSOIL BACKFILL WITH GRANULAR MATERIAL, MNDOT 3142.25
- GEOTEXTILE FABRIC, MNDOT TYPE S, NONWOVEN
- COMPACTED SUBGRADE
SECTION 5: TOWNSHIP ADDRESSING SIGN SPECIFICATIONS AND STANDARDS

Section 500. Township Actions.

A. **Purpose and Intent.** In order to establish a uniform process of procurement, placement, and maintenance of property addressing in Lynden Township (“Township”) consistent with Stearns County 911 addressing standards, this ordinance section is created.

B. **Procurement.** Pursuant to Stearns County 911 addresses being assigned by Stearns County to Construction Site Permits being issued, Lynden Township through its agents or employees shall order a numbered sign and post, if needed, from its sign vendor.

C. **Placement.** The placement or relocating of property addressing signs and posts in Lynden Township shall be consistent with Stearns County 911 addressing standards and shall only be done by Lynden Township through its agents or employees.

D. **Maintenance.** The maintenance or repair of property addressing signs and posts in Lynden Township shall only be done by Lynden Township through its agents or employees.


A. **Signs and Posts.** Assigned property addressing signs or posts placed pursuant to this ordinance shall not be altered, removed, relocated, defaced, damaged, stolen, obliterated, or otherwise defeated or rendered useless by any person.

B. **Gopher State One Call.** As required in MN Law Chapter 216D, no person shall dig, excavate, bore, drill, place, or drive any post or other object in the Lynden Township right-of-way without having first called *Gopher State One Call (8-1-1)* for a locate of underground utilities and to have the area marked.

C. **Other Acts.** Any other act by any person contrary to or inconsistent with Section 5 of this ordinance or M.S. §160.27 PARTICULAR USES OF RIGHT-OF-WAY; MISDEMEANORS or its successor statutes is prohibited.

SECTION 6  TOWNSHIP RIGHT-OF-WAY REGULATIONS

Section 601. Purpose.

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

Section 602. Intent.

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

Section 603. Interpretation.
This section shall be interpreted consistently with Minnesota Statutes Sections 237.16, 237.162, 237.163, 267.79, 237.81, and 238.086 (the “Act”) and the other laws governing applicable rights of the Town and users of the right of way. This chapter shall also be interpreted consistent with Minnesota Rules 7819.0050 – 7819.9950 where possible. To the extent any provision of this section cannot be interpreted consistently with the Minnesota Rules, shall be the interpretation most consistent with the Act and other applicable statutory and case law intended. This section shall not be interpreted to limit the regulatory and police powers of the Town to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

Section 604. Permit Required.
A utility permit must be submitted for any Township Road on which work will be performed, prior to any work within the right-of-way by any utility/contractor. Emergency conditions which threaten the safety of the public and require immediate repair are exceptions to this rule. The utility/contractor, under emergency conditions, is permitted to begin and/or complete the necessary repairs, but first must call and leave word of such work at 320-774-8507 or email clerk@lyndentownship.net. A written permit should be completed and sent to Lynden Township the next business day. A sketch or drawing shall accompany each copy of the permit application, which will show the location of the proposed utility with reference to the township road centerline and right-of-way line. A COMPLETE SET OF PLANS IS REQUIRED FOR ALL SEWER/WATER PROJECTS.

Section 605. Bonds/Letter of Credit
The Township requires a Construction Performance Bond, Letter of Credit, or cash escrow deposit to the Township of a minimum of $5,000. It shall be the responsibility of the applicant to abide by the special conditions listed on the permit. The Township reserves the right, to revoke any permit and halt work if, upon inspection of any job site, the special conditions listed on the permit are not met and/or a hazard exists for the applicant or public safety is threatened.

Section 606. Privately Owned Utility.
Any privately owned utility in the right-of-way is the responsibility of the owner. The owner is responsible for all GOPHER STATE ONE CALL locates. Any damage to unlocated private utilities by a public utility, during a permitted construction is the responsibility of the privately owned utility owner.

Section 607. Special Conditions.
A. Tresspass/Liability.
This permit allows the applicant to perform work within the limits of the Township Road Right-of-Way. The research, determination, and verification of the actual extents of the Township Road Right-of-Way is the sole burden and responsibility of the applicant. All work performed outside the Township Road Right-of-Way must be coordinated with any and all affected land owners. In no event will Lynden Township be liable for any damages, including loss of business, lost profits, business interruption, or other pecuniary loss that might arise from the applicant’s
lack of research, determination and verification of the actual extents of the Township Road Right-of-Way.

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

C. **Construction Requirements.**
   
   1. Installation shall be done according to the installation plan presented. Specifically, the installation shall be within the ditch bottom and back slopes and for it to be placed 25-ft or more from the roadway centerline. Installation requires that a line or lines are buried 36-inches deep and no closer than 25-ft from the centerline of the roadway.
   
   2. The best situation for the Township is when the utility is located on the back slope of the ditch and as far away from the roadway as possible. At no time should installation of the utility be allowed to run parallel to the roadway within the ditch in-slope area.
   
   3. Open cutting of bituminous or concrete surfaced roads will be allowed only at the discretion of the Township.
   
   4. Neither supplies nor excavated materials shall be placed on the bituminous or concrete surface at any time.
   
   5. No holes, trenches or excavations will be allowed to remain open overnight without safety devices.
   
   6. Materials removed from the trench shall be used as backfill insofar as they are suitable. All backfill materials shall conform to MnDOT specifications for compaction. The use of heavy equipment on top of trench, slapping with backhoe bucket and/or back casting to achieve compaction is prohibited. The applicant at no expense to the Township shall furnish any additional material required to back fill to the original grade. All the base and surface courses damaged during construction operations shall be restored to a condition equal to or better than before operations began. The applicant shall be responsible for and restore any settlement.
   
   7. All culverts, ditches, shoulders and back slopes shall be restored to their original condition unless otherwise directed by the Township. Shoulders, which have been previously constructed or reconstructed with special materials, shall be replaced in kind. Restoration of signs, guardrails, guard posts, etc., is the sole responsibility of
the applicant and shall be restored to their original condition as approved by the Township.

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

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

F. **Concrete Restoration.**
   1. Curb and gutter, sidewalks and driveways shall be restored in accordance with MnDOT specifications 2531 and 2521 or it successor standard.

G. **Utility Lines.**
   1. There shall be only a single pole line in the Township right-of-way on either side of the centerline thereof.
   2. Exact locations of longitudinal installations on Township roads shall be shown on your sketch.
   3. The minimum clearance for an overhead utility crossing a Township road, as measured from the centerline is 20 feet.
H. **Section Corner Monuments.**
   1. Utility locations shall not interfere with the location of any section, quarter, witness or R.O.W. monuments. For assistance in locations, contact the Lynden Township Engineer.
   2. The applicant shall be responsible for replacement of any existing property irons disturbed during construction.
   3. The applicant shall notify the Township three working days in advance of any anticipated disturbance of any section, quarter, witness or R.O.W. Monuments.
   4. Any monument disturbed during the course of construction shall be reset by the Township at the expense of the applicant.

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

J. **Prohibited Installations and Activities.**
   It shall be unlawful, without written consent of the Town Board, for any person to place within any Township easement or right of way, any construction improvements, buildings, structures, headwalls, rocks or boulders greater than six inches in diameter (MnDOT 3601 Class I Riprap is acceptable), soils, landscaping items, or engage in any activity prohibited by Minnesota Statute §160.2715, or any other installation which may interfere with proper sight distance, vehicular safety, stormwater drainage, road maintenance operations, weed and brush control or in any manner endanger or impede the public use and proper maintenance of the easement or right of way.
   1. **Landscaping.** It shall be unlawful for any person to plant trees, shrubbery, crops or other vegetation within the right of way which may obstruct vehicle operator sight distance or lead to soil erosion or impede drainage.
   2. **Drainage.** It shall be unlawful for any person to disrupt, dam, impede or slow the drainage of any ditch within an easement or right of way or other public waterways providing stormwater drainage for the roadway system, or cast or direct surface or subsurface waters into road right of way except through natural drainage ways.

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

L. **Culverts.** All culvert installations shall be approved, in writing, by the Town Engineer prior to construction of the proposed approach. In general, only corrugated metal, reinforced concrete or dual-walled corrugated polyethylene pipe culvert materials will be approved by the Engineer. All culvert installations are to include apron end sections. The minimum pipe diameter is to be fifteen (15) inches.

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

1. **Emergency Abatement.** If the Board determines that the violation poses an immediate
   threat to public safety, the Board shall make a good faith effort to notify the violator to
   immediately correct the violation. If the Board is not able to promptly reach the violator or if
   the violator fails to comply with the correction order upon notification, the Board may
   provide for the abatement of the violation by the Town.

2. **Assessment of Costs.** The Town Board may deem the abatement of any violation of this
   Ordinance to be a public nuisance or it may initiate a public improvement pursuant to
   Chapter 429 of Minnesota Statutes, and in either case provide that the cost of abating the
   violation shall be the responsibility of the violator and owner of the property on which the
   violation occurs. If the Board provides for the abatement of the violation pursuant to this
   section, all expenses incurred by the Town, including reasonable attorney’s fees and
   engineering fees, shall be the responsibility of the violator and the owner. If such costs
   remain unpaid 30 days after billing, the Town Board may certify such costs to the County
   Auditor for collection in a single installment as a special assessment against the owner’s
   property abutting the site of the violation.

3. **Appeal of Costs.** If the recipient of such billing or the recipient’s representative or estate
   disputes the reasonableness of the charges, the aggrieved party may appeal the
   reasonableness of the charge to the Town Board, provided notice of appeal in writing is
   made to the Town Clerk within fifteen (15) days after the Town Clerk has mailed a notice of
   delinquency to the violator and the owner. The Town Board shall then hear and pass on the
   reasonableness of the costs at its next regularly scheduled or special Town Board meeting.

4. **Persons Notified.** All notices regarding described violations shall be served by U.S. Mail on
   the violator and on all owners of record as shown in the files of the Stearns County
   Recorder.

5. **Penalties.** Any person who violates this Ordinance shall be guilty of a misdemeanor offense
   and subject to the penalties for such as provided in State law. If convicted, the person may
   be assessed cost of prosecution as allowed by Minnesota Statute §366.01, Subd. 10.

6. **Shared Liability.** For purposes of this Ordinance, owner means the owner of record of the
   property abutting the right of way on which the violation of this ordinance occurs, as
   contained in the records of the Stearns County Recorder. For purposes of this Ordinance,
   violator means the person or entity which installs or constructs or maintains a violation of
   this Ordinance. After service of an abatement order, both the owner and the violator are
   liable for all criminal and civil costs and penalties associated with the violation and its
   abatement.

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

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

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

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

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

R. Protection of the Town and the Public.
1. Non-Completion or Abandonment. Work shall progress expeditiously to completion in accordance with any time limitation placed thereon by the Town so as to avoid unnecessary inconvenience to the public. In the event that work is not performed in accordance therewith, or shall cease or be abandoned without due cause, the Town may, after six (6) hours notice in writing to the holder of the permit of its intention to do so, correct the work, fill the excavation and repair the public property, and the cost thereof shall be paid by the permit holder.
2. Insurance. Prior to commencement of the work described in the application, the applicant shall furnish the Town satisfactory written evidence that the applicant will keep in effect public liability insurance of not less than $500,000 for any person, $500,000 for any occurrence and property damage insurance of not less than $25,000, issued by an insurance company authorized to do business in the State of Minnesota, and on which the Town is named as a co-insured.
3. Indemnification. Before issuance of a permit, the applicant shall, in writing, agree to indemnify and hold the Town harmless from any liability for injury or damage arising out of the action of the applicant in performance of the work, or any expense whatsoever incurred by the Town incident to a claim or action brought or commenced by any person arising therefrom.

S. Street, Right Of Way, or Public Property Patching And Restoration.
1. Timing. The work to be done under the right of way work permit, and the patching and restoration of the right of way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of
circumstances beyond the control of the permittee or when work was prohibited as unseasonable or unreasonable.

2. **Patch and Restoration.** Permittee shall patch its own work. The Town may choose either to have the permittee restore the right of way or to restore the right of way itself.

   A. **Town Restoration.** If the Town restores the right of way, permittee shall pay the costs thereof within thirty (30) days of billing. If following such restoration, the pavement settles due to permittee’s improper backfilling, the permittee shall pay to the Town, within thirty (30) days of billing, all costs associated with having to correct the defective work.

   B. **Permittee Restoration.** If the permittee restores the right of way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minnesota Rules 7819.3000.

   C. **Degradation Fee in Lieu of Restoration.** In lieu of right of way restoration, a right of way user may elect to pay a degradation fee. However, the right of way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

   D. **Standards.** The permittee shall perform patching and restoration according to the standards and with the materials specified by the Town and shall comply with Minnesota Rule 7819.1100.

   E. **Duty to Correct Defects.** The permittee shall correct defects in patching or restoration performed by permittee or its agents. Permittee upon notification from the Township, must correct all restoration work to the extent necessary, using the method required by the Town. Said work shall be completed within five (5) calendar days of the receipt of the notice from the Township, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable.

   F. **Failure to Restore.** If the permittee fails to restore the right of way in the manner and to the condition required by the Town, or fails to satisfactorily and timely complete all restoration required by the Town, the Town at its option may do such work. In that event the escrow money deposited with the Town at the time of permit application will be used to pay for the work. If the cost of the restoration work exceeds the escrow balance the permittee shall pay to the Town, within thirty (30) days of billing, the cost of restoring the right of way. If the permittee fails to pay as required, the Town may exercise its rights under the construction performance bond, letter of credit, or escrow deposit.

   G. **Cost Adjustment.** Within sixty days following completion of such permanent repairs, the Township shall determine and compare the actual costs of repairs with the estimated costs paid to the Town pursuant to Subdivision 3 of this Section, furnish to the permit holder an itemized statement thereof, and claim additional payment from, or make refund (without interest) to the permit holder, as the case may be.

   H. **Alternate Method of Charging.** In lieu of the above provisions relating to cost and cost adjustment for street openings, the Township may charge on the basis of surface square feet removed, excavated cubic feet, or a combination of surface square feet and excavated cubic feet, on an established unit price uniformly charged.
SECTION 7:  ENFORCEMENT PROCEDURES

Section 700.  Violations.

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

Section 701.  Remedies.

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

The Administrative enforcement procedures established within Lynden Township Ordinance 10 provide Lynden Township with an informal, cost-effective and more efficient alternative to criminal prosecution or civil litigation for certain violations of Township Ordinances. Lynden Township retains the right, at its sole discretion, to enforce provisions of its Ordinances by bringing criminal charges or commencing civil litigation in any case where the Township determines it is appropriate or necessary.
SECTION 8: EFFECTIVE DATE.

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

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

TOWNSHIP OF LYNDEN

_______________________________
Town Board Chair

_______________________________
Township Clerk