

EUREKA TOWNSHIP

CODE OF ORDINANCES

EUREKA TOWNSHIP ORDINANCES

TABLE OF CONTENTS

ORDINANCE 1: GENERAL PROVISIONS.....	1
Overview	
Compliance with Official Statutes	
Repealing Old Ordinance	
Definitions	
Process for changing ordinances	
ORDINANCE 2: TOWNSHIP ADMINISTRATION.....	29
Township Board Meetings	
Board of Adjustments and Appeals	
Planning Commission	
Special Committees and Task Force	
Township Contractors	
Township Staff	
Township Records	
ORDINANCE 3: ZONING.....	45
General Provisions	
Zoning Districts	
Buildable Lots	
Performance Standards, Building Ordinances and Building Permits	
Agriculture	
Airstrip Policy	
Domestic and Non-Domestic Animals	
Signs on Private Property	
ORDINANCE 4: PUBLIC SAFETY.....	110
Emergency Services	
Roads	
Utility Line Installations	
Fire Arms	
Subsurface Sewage Treatment Systems (SSTS)	
ORDINANCE 5: LIVABILITY.....	183
Parks and Recreation	
Schools, Libraries and Other Public Buildings	
Outdoor Assemblies	
Nuisance	
Open Burning	
Noise	

ORDINANCE 6: MINING	203
Ordinance	
Purpose	
Definitions	
Permit Required	
Mineral Extraction Permit Application Requirements	
Permitting Procedure	
Mineral Extraction Performance Standards	
Termination, Violations and Penalties	
Enforcement	
Fees	
Financial Guaranty	
Liability Insurance	
Pre-existing Mineral Extraction Facilities	
Validity	
 ORDINANCE 7: FEES	 248
Payment of Fees	
Establishment of Fees	
 ORDINANCE 8: ENFORCEMENT OF TOWNSHIP ORDINANCES	 261
Penalties	
 ORDINANCE 9: WATER MANAGEMENT ORDINANCES	 263
North Cannon River WMO (Ordinance 9, Adopted 6-12-06 by Resolution No. 46)	
 ORDINANCE 10: SUBDIVISION OF PROPERTY	 316

ORDINANCE 1: GENERAL PROVISIONS

CHAPTER 1: OVERVIEW2

CHAPTER 2: COMPLIANCE WITH OFFICIAL STATUTES3

CHAPTER 3: REPEALING PRIOR ORDINANCES4

CHAPTER 4: DEFINITIONS5

CHAPTER 5: PROCESS FOR CHANGING ORDINANCES28

ORDINANCE 1: GENERAL PROVISIONS

Chapter 1: Overview

Section 1 - VALIDITY

Every provision of these ordinances shall be severable from every other part or provision thereof, and if one provision is held invalid by a Court such invalidity shall not affect any other part or provision thereof.

Section 2 – APPLICATION OF RULES

The language set forth in the text of an ordinance shall be interpreted in accordance with the following rules of construction:

- A. The singular includes the plural and the plural the singular.
- B. The present tense includes the past and future tenses, and the future tense includes the present tense.
- C. The word “shall” is mandatory, and the word “may” is permissive.
- D. The masculine gender includes the feminine and neuter genders.
- E. Whenever a word or term defined hereinafter appears in the text of an ordinance, its meaning shall be construed as set forth in such definition. If no set definition is given in these ordinances, the Board of Appeals shall interpret and define any word or section of the ordinance.
- F. All measured distances expressed in feet shall be to the nearest tenth of a foot.
- G. In event of conflicting provisions or laws, the more restrictive provisions or laws shall apply.

Chapter 2: Compliance with Official Statutes

References in this code to Minnesota Statutes are to Minnesota Statutes 2012 and amendments thereto.

Chapter 3: Repealing Prior Ordinances

All general Ordinances of the township passed prior to the adoption of these ordinances are hereby repealed, except such as are included in these ordinances or are by necessary implication herein reserved from repeal.

Chapter 4: Definitions – The following definitions will apply throughout the code unless specifically indicated otherwise.

Abutting property owner

Any person or persons, corporation, or other entity that owns, leases, or in any other way uses or controls the real property adjoining any portion of the property of another. (Ord. 2010-1, 6-15-2010)

Accessory Building

A subordinate building that serves an Accessory Use of the parcel on which it is located, and does not change the character of the Principal Use. In other words, an Accessory Building is a building which is an Accessory Structure. (Ord. 2010-1, 6-15-2010)

Accessory Structure

A subordinate structure that serves an Accessory Use of the parcel on which it is located, and does not change the character of the Principal Use. (Resolution 59, 8-13-2007, Ord. 2010-1, 6-15-2010)

Accessory Use

A use of a parcel that is subordinate to the Principal Use of the parcel, is located on the same parcel as the principal use, is customarily associated with and incidental to the principal use, and does not change the character of the principal use. There can be no accessory use on a parcel without a principal use. (Resolution 59, 8-13-2007, Ord. 2010-1, 6-15-2010)

Advertising

Any message, whether in words, symbols, pictures or any combination thereof, painted or otherwise applied to the face of an outdoor advertising device, which message is designed, intended, or used to advertise or inform. (Resolution 59, 8-13-2007)

Agriculture

The use of land for the production of farm crops as well as for the raising of livestock.

Agricultural Building

Any building other than a dwelling that is incidental to the farming operation, including but not limited to barns, granaries, silos, farm implement storage buildings and milk houses.

Agricultural Operations

Operations operating for a profit which include, but not limited to, the cultivation and tillage of soil; dairying; the production, irrigation, cultivation, growing, harvesting and processing of any agricultural commodity, including horticulture and timber; the raising of livestock, fur-bearing animals, fish or poultry; or any commercial agricultural practice performed as incidental to or in conjunction with such operations, including preparation for market, delivery to storage, to market, or to carriers for transportation to market.

Aircraft Hangar

A building for the storage of aircraft, and which may be used for the maintenance of the aircraft stored therein. (Ord. 2010-1, 6-15-2010)

Airstrip

An airfield without normal airport facilities.

Airport

A tract of leveled land where aircraft can take off and land, usually equipped with hard-surfaced landing strips, a control tower, hangars, aircraft maintenance and refueling facilities, and accommodations for passengers and cargo.

Alley

A public or private right-of-way which affords a secondary means of access to abutting property.

Animal Feedlot

Animal feedlot means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of livestock for eventual sale and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered animal feedlots. Feedlots include accessory structures thereto. Pastures shall not be considered animal feedlots under these parts.

Animal Manure or Manure

Animal manure or manure means poultry, livestock, or other animal excreta or a mixture of excreta with feed, bedding, precipitation, or other materials.

Animal Unit

Animal unit means a unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer for an animal feedlot or manure storage area calculated by multiplying the number of animals of each type in clauses (1) to (12) by the respective multiplication factor and summing the resulting values for the total number of animal units. On animal units, the following multiplication factors apply:

- (1) one mature dairy cow, whether milked or dry:
 - (i) over 1,000 pounds, 1.4 animal units; or
 - (ii) under 1,000 pounds, 1.0 animal unit;
- (2) one cow and calf pair, 1.2 units;
- (3) one calf, 0.2 unit;
- (4) one slaughter steer, 1.0 animal unit;
- (5) one head of feeder cattle or heifer, 0.7 unit;
- (6) one head of swine:
 - (i) over 300 pounds, 0.4 animal unit;
 - (ii) between 55 pounds and 300 pounds, 0.3 animal unit; and
 - (iii) under 55 pounds, 0.05 animal unit;
- (7) one horse, 1.0 animal unit;
- (8) one sheep or lamb, 0.1 animal unit;
- (9) one chicken:
 - (i) one laying hen or broiler, if the facility has a liquid manure system, 0.033 animal unit; or
 - (ii) one chicken if the facility has a dry manure system:
 - (A) over five pounds, 0.005 animal unit; or
 - (B) under five pounds, 0.003 animal unit;
- (10) one turkey:
 - (i) over five pounds, 0.018 animal unit; or
 - (ii) under five pounds, 0.005 animal unit;
- (11) one duck, 0.01 animal unit; and
- (12) for animals not listed in clauses (1) to (11), the number of animal units is the average weight of the animal in pounds divided by 1,000 pounds.

Antennae

Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including, but not limited to, directional antennae, such as panels, microwave dishes, and satellite dishes, and omni-directional antennae, such as whip antennae.

Apartment

A room or suite of rooms with cooking facilities available, which is occupied as a residence by a single-family, or a group of individuals living together as a single family unit. This includes any units in buildings with more than two dwelling units.

Approach

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.

Assault Weapons

Any weapon other than firearms having personal assault characteristics including, but not limited to dagger, switchblade knife, stiletto, dirk, spring blade knife, push-button knife, blackjack, sand club, pipe club, chair club, brass knuckles, Molotov cocktails, grenades and explosive devices.

Assembly

A company of persons gathered together at any location at any single time for any purpose.

Basement

A portion of a building in which half or more of its floor-to-ceiling height is below the average grade of the adjoining ground.

Board

Board means the town board of supervisors of Eureka Township, Dakota County, Minnesota.

Boarding

The keeping, training or conditioning of animals owned by another for a consideration.

Boarding House

A building other than a motel, hotel or apartment where, for compensation and by prearrangement for definite periods, meals or lodgings are provided for at least three but not more than 20 persons unrelated to the owner or lawful possessor by blood or marriage. The term shall include the terms "rooming house" or "lodging house."

Building

Any structure having a roof which may provide shelter or enclosure of persons, animals, chattel, or property of any kind and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

Building Height

The vertical distance to be measured from the grade of a building line to the top of the cornice or a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the upper most point on a round or other arch type roof, to the mean distance of the highest gable on a pitched or hip roof. (Resolution 59, 8-13-2007)

Building Line

A line parallel to the street right-of-way line at any story level of a building, and representing the minimum distance which all or any part of the building is set back from said right-of-way line.

Carrying

The actual physical transportation of a firearm on or about one's person, concealed or otherwise; but not to include the transportation of a firearm to and from the place of business of a federally licensed dealer, and not to include any federally licensed dealer or his agent while actually engaged in normal business activity.

Clustering

The construction of more than one residential dwelling unit per quarter-quarter section as provided for in Ordinance 3, Chapter 3, Section 2. (Resolution 59, 8-13-2007)

Commercial Agriculture

The exclusive use of ten (10) or more contiguous acres of land for the production of field crops, livestock products, or livestock, not counting one acre for homestead. For purposes of this section, the terms field crops, livestock products and livestock shall include, but not be limited to: (Ord. 2010-1, 6-15-2010)

- A. Field crops: barley, soybeans, corn, hay, oats, potatoes, rye, sorghum, and vegetables.
- B. Livestock products: milk products, butter, cheese, eggs, meat and furs.
- C. Livestock as defined herein.

Community Water and Sewer Systems

Utility systems serving a group of buildings lots, or any area of the Township which are constructed and operated by the Town Board or other governmental unit having jurisdiction thereof.

Companion Animal

Any animal that is commonly kept by persons as a pet or for companionship. The definition of "companion animal" includes but is not limited to: domesticated dogs and domesticated cats.

Comprehensive Plan

"Comprehensive Plan" is a compilation of goals, policy statements, standards programs and maps for guiding the physical, social and economic development, both public and private, of the municipality and its environs, as defined in the Minnesota Municipal Planning Act, and includes any unit or part of such plan separately adopted, and any amendment to such plan or parts thereof.

Comprehensive Sewer Plan

The plan and program of a local governmental unit for the collection, treatment and disposal of sewage which has been approved by the Metropolitan Waste Control Commission and the Metropolitan Council and adopted by the local governmental unit.

Conditional Use

A use which may be appropriate or desirable in a specified zone, but which may create special problems such as excessive height or bulk or abnormal traffic congestion so that not all locations within a specified zone might be suitable or in the best interest of the community.

Confinement

The physical restriction of an animal to a certain defined location or area by leash, cord, chain, wall, fence, or other means. (Ord. 2010-1, 6-15-2010)

Curb Level

The grade elevation established by the Town Board of the curb in front of the center of the building. Where no curb level has been established, the engineering staff shall determine a curb level or its equivalent for the purpose of this Ordinance.

Dismantled Firearm

Any firearm which is dismantled in such a manner as to make shooting impossible, or any weapon with vital parts missing so as to render it inoperable.

Dog Kennel

A place where six or more dogs over six months of age are kept or harbored.

Drainage System

Any natural or artificial device for the conveyance or storage of water used to drain or store surface or underground water, including but not limited to streams, rivers, creeks, ditches, channels, conduits, gulleys, ravines or washes and including structures connected therewith including culverts, drainage tile, dams and bridges, and water storage basins such as lakes, ponds, natural or man-made.

Dwelling, Attached

A dwelling which is joined to another dwelling.

Dwelling, Detached

A dwelling which is entirely surrounded by open space on the same lot.

Dwelling Unit

A residential building or portion thereof intended for occupancy by a single family, but not including hotels, motels, boarding or rooming houses, or tourist homes.

Earth-Sheltered Home

A single-family residential structure partially or entirely below ground, that is water-proofed to sufficiently provide a low-humidity interior environment, is not designed

for the future installation of an upper floor, and is designed to meet or exceed all State Building Code Standards for fire safety, window area and other requirements.

Encased Firearm

Any firearm placed in a case in such manner as to prevent shooting of the same.

Escrow Fund

An account in which funds are set aside for payment of attorney, planning, engineering or other professional consultant costs incurred in processing an application. (Resolution 59, 8-13-2007)

Exotic Animal

Any animal that is not normally domesticated in the United States or is wild by nature. Exotic animals include, but are not limited to, any of the following orders and families, whether bred in the wild or captivity, and also any of their hybrids with domestic species. The animals listed in parentheses are intended to act as examples and are not be construed as an exhaustive list or limit the generality of each group of animals, unless otherwise specified:

- A. Non-human primates and prosimians (monkeys, chimpanzees, baboons)
- B. Felidae (lions, tigers, bobcats, cougars, leopards, jaguars, not domesticated cats)
- C. Canidae (wolves, coyotes, foxes, jackals, not domesticated dogs)
- D. Ursidae (all bears)
- E. Repitilia (all venomous snakes, all constricting snakes, iguanas, turtles, lizards)
- F. Crocodilia (alligators, crocodiles)
- G. Proboscidae (elephants)
- H. Hyanenidae (hyenas)
- I. Artiodactyla (hippopotamuses, giraffes, camels, not cattle or swine or sheep or goats)
- J. Procyonidae (raccoons, coatis)
- K. Marsupialia (kangaroos or possums)
- L. Perissodactylea (rhinoceroses, tapirs, not horses or donkeys or mules)
- M. Edentata (anteaters, sloths, armadillos)
- N. Viverridae (mongooses, civets, genets)

Express Invitation

Actual written notice signed by the "landowner" with said "landowner's" name, address, and telephone number clearly imprinted on same, and carried on the

person of at least one (1) specifically named individual on said notice in any group or party shooting on said lands, said notice to also include an effective date and a date of expiration.

Extraction Area

Any non-agricultural artificial excavation of earth exceeding fifty square feet of surface area or two feet in depth, excavated or made by the removal from the natural surface of the earth, or sod, soil, sand, gravel, stone or other natural matter, or made by turning, or breaking or undermining the surface of the earth.

Family

An individual or two or more persons related by blood, marriage or adoption or not more than four unrelated persons living together in an independent, single housekeeping unit.

Farm

Real property used for commercial agriculture comprising ten (10) or more contiguous acres, and which may comprise additional acreage which may or may not be contiguous to the principal ten acres, all of which is owned and operated by a single family, family corporation, individual or corporate enterprise.

Federal Communications Commission

The Federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

Fee

A charge for processing an application, which must be paid at the time of application and which is non-refundable. (Resolution 59, 8-13-2007)

Feedlot

See definition of Animal Feedlot.

Firearm

Regardless of the method of propulsion of the ammunition, firearms shall include but not be limited to shotguns, rifles, pistols, air rifles, B.B. guns, paint ball guns, slingshots and bows propelling pointed arrows.

Floor Area

The sum of the gross horizontal areas of several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space, and including any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, the floor area shall not include basement floor area, other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices.

Garage, Private

An accessory building or accessory portion of the principal building, which is intended for and used to store the private passenger vehicles or other motor vehicles of the family resident upon the premises.

Hand Gun

Any firearm designed to be fired from the hand.

Headwall

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.

Historic Site

Structure or body of land or water of historic archeological, paleontological, or architectural content or value which has been designated as a historical site in the Federal Register of Historical Landmarks, by the Minnesota Historical Society, or by resolution of a local governmental unit.

Home Occupation

An occupation or profession engaged in by the occupant of a dwelling, which is clearly secondary to the principal use, when carried on within the dwelling unit and not in an accessory structure, and which shows no activity other than activity normally present in a residential dwelling unit.

Horticulture

The use of land for production and sale of fruits, including apples, grapes, and berries, vegetables, flowers, and nursery stock, including ornamental shrubs and trees and cultured sod.

Incidental

Occurring as a minor, subordinate, or chance use or instance, related to the principal use. (Resolution 59, 8-13-2007)

Interim Use

A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning Ordinances no longer permit it. (Resolution 59, 8-13-2007)

Irrigation System

Any structure or equipment, mechanical or otherwise, used to supply water to cultivated fields or supplement normal rainfall, including but not limited to wells, pumps, motors, pipes, culverts, gates, dams, ditches, tanks, ponds, and reservoirs.

Junk

Junk means old or scrap 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.

Junk Vehicle

Any motor vehicle which for a period of 45 days or more is not in operable condition or is partially dismantled, or which is used for sale of parts or as a source of repair or replacement parts for other vehicles, or which is kept for scrapping, dismantling, or salvage of any kind or which for a period of 30 days or more is not properly licensed and insured for operation within the State of Minnesota, except season service vehicles, where license is required for part of year only.

Junk Yard

An open area where waste, and used or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber, tires, and bottles. A

junk yard includes uses established entirely within enclosed buildings. This definition does not include sanitary landfills.

Landowner

The legal or beneficial owner or owners of land within the territorial limits of the Township of Eureka, a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land. (Resolution 59, 8-13-2007)

Landscaping

Plantings such as trees, flowers, grass and shrubs, and improvements directly related thereto. (Resolution 59, 8-13-2007)

Lattice or Self-Supported Tower

A tower, erected on the ground, which consists of metal crossed strips or bars to support antennae and related equipment.

Livestock

Any animal commonly used by persons for draft or pleasure purposes. The definition of "livestock" includes but is not limited to: poultry, cattle, swine, sheep, goats and horses, but shall not include Companion or Exotic Animals. (Resolution 59, 8-13-2007)

Lot

A parcel of land, subdivided or otherwise capable of legal description, and having a principal frontage along a public road.

Lot Area

The area of a lot in a horizontal plane bounded by the lot lines.

Lot, Corner

A lot situated at the junction of and abutting two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one-hundred-thirty-five (135) degrees.

Lot Depth

The mean horizontal distance between the front lot line and the rear lot line of a lot.

Lot Line

The property line bounding a lot, except that where any portion of a lot extends into the public right-of-way, the line of such public right-of-way shall be the lot line for applying these ordinances.

Lot Line, Front

That boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner and filed with the Town Board. (Resolution 59, 8-13-2007)

Lot Line, Rear

That boundary of a lot which is opposite the front lot line. If the rear line is less than ten feet in length, or if the lot forms a point at the rear, the lot line shall be a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot Line, Side

Any boundary of a lot which is not a front lot line or a rear lot line.

Lot Split

Division of an existing parcel of land into two or more parcels. All surveys for lot splits must include a plat of the new parcels and the required legal description to record the split. A lot split is not a lot of record unless and until it has been filed with the Office of the Dakota County Recorder and has been assigned a separate Parcel Identification Number (PIN) by the Dakota County Treasurer-Auditor's Office. (Resolution 59, 8-13-2007, Ord. 2010-1, 6-15-2010)

Lot, Substandard

A lot of record which does not meet the minimum lot area, structure setbacks, or other dimensional standards of an Ordinance.

Lot, Through

A lot which has a pair of opposite lot lines abutting two substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lot lines for applying an ordinance.

Lot Width

The maximum horizontal distance between the side lot lines of a lot measured within the first thirty feet of the lot depth.

Manufactured Home

A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site. A manufactured home is a single-family dwelling. (Resolution 59, 8-13-2007)

Mining

The extraction of sand, gravel, rock or other materials from the land in the amount of 400 cubic yards or more, and the removing thereof from the site without processing shall be mining. The only exclusion from this definition shall be removal of materials associated with construction of a building provided such removal is an approved item in the building permit.

Mobile Home

See *manufactured home*.

Mobile Home Park

Any premises on which lots are rented for the placement of non-transient occupied mobile homes.

Monopole Tower

A single, self-supported pole-type tower, tapering from the base to the top and supporting a fixture designed to hold one or more antennae.

Motel

A building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients. The term includes the term "tourist court."

Multiple Residence

Two or more dwelling units in one structure. The definition includes apartment buildings.

Multi-User Tower

A tower to which is attached the antennae of more than one service provider or governmental entity

Non-Conforming Use or Structure

Any structure or use lawfully established prior to the effective date of these Ordinances but which is not permitted under the provisions of these Ordinances. (Resolution 59, 8-13-2007, Ord. 2010-1, 6-15-2010)

Nuisance

Anything which is injurious to health, or indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. (Ord. 2010-1, 6-15-2010)

Off-Site Advertising Sign

An outdoor advertising sign that advertises an activity, service or product and that is located on premises other than the premises at which activity or service occurs or product is sold or manufactured. (Resolution 59, 8-13-2007)

Parking Space

A suitably surfaced and permanently maintained area on privately owned property, either within or outside of a building of sufficient size to store one standard automobile.

Pasture

Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetation cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

Pen

An area enclosed, for example, by walls, bars or meshed wire in which one or more animals are kept; depending on the size of the enclosure and the stocking density the freedom of movement of the animals is usually less restricted than in a cage.

Permitted Use

A use which is expressly permitted within a district established by these Ordinances, provided that such use conforms with all requirements, ordinances and performance standards of such district.

Planning Commission

The Planning Commission of Eureka Township.

Plat

A map or chart of a lot subdivision or community showing boundary lines, improvements on the land and easements prepared for recording or recorded at the County Recorder.

Pre-1982 Lot of Record

Any lot which is one unit of a plat heretofore duly approved, one unit of an Auditor's Subdivision or a Registered Land Survey, or is separately described in a deed, contract for deed, or other legally sufficient instrument of conveyance, and which was filed in the Office of the Dakota County Recorder on or before April 12, 1982. Also to be considered as a Pre-1982 Lot of Record shall be any parcel delineated on a certificate of survey prepared by a Minnesota-licensed land surveyor, and which was filed in the Dakota County Surveyor's Office on or before April 12, 1982. (Ord. 2010-1, 6-15-2010)

Principal Structure

A structure that is the main or primary structure as designated by the main or principal use of the land and distinguished from subordinate or accessory structures. A dwelling or agricultural building in an agriculture district are examples of a principal structure.

Principal Use

A principal use relates to the main purpose of the zoning district, exists independently of any other use of a property, and is allowed as a permitted, conditional, or interim use.

Private Kennel

A kennel where dogs or other companion animals are kept by the owner for personal use.

Private Stable

A place where horses or draft animals are kept by the owner for personal use and enjoyment. A private stable may not be used for commercial purposes, such as selling, boarding, breeding, showing, treating or grooming horses or draft animals for a consideration.

Public Building

Public and private not-for-profit educational institutions, governmental buildings, museums, art galleries, fire houses, post offices, police stations, libraries, public recreational facilities, essential services and similar uses.

Public Land

Land owned or operated by municipal, school district, county, state, or other governmental units.

Public Stable

A place where horses or draft animals are kept for public use or sale, which shall include but not be limited to the following activities: riding, rentals, boarding, auctions, racing, competition, sale of accessories, rodeos, and the giving of instructions in riding and horsemanship.

Public Utility

Persons, corporations, or governments supplying gas, electric, transportation, water, or land line telephone service to the general public. For the purpose of this Section, wireless telecommunication service facilities shall not be considered public utility uses and are defined separately.

Quarter-Quarter Section

An approximately 40-acre parcel of land constituting the northeast, northwest, southwest or southeast quarter of a quarter-section of the United States Government System of Land Survey.

Reclamation Land

The improvement of land by disposition of material to elevate the grade. Any parcel upon which 400 cubic yards or more of fill are deposited shall be considered as reclaimed land.

Recreation Area

A parcel of land which may include bodies of water and incidental buildings maintained for public recreation, including but not limited to parks, playgrounds, golf courses, hunting preserves, polo grounds, nature trails, bridle paths, beaches, campsites, ski and snowmobile trails, and canoe routes.

Reorganizational Town Board Meeting

A meeting held annually after the annual township meeting at which the Town Board reorganizes to address township business such as election of Town Board Chair, designation of official newspaper, legal posting places, adoption of the calendar for the coming year, designation of a Township Attorney, and other organizational matters.

Right-of-Way.

Right-of-Way means the entire width between boundary lines of any way or place under the jurisdiction of the Town Board when any part thereof is open to the use of the public, as a matter of right, for the purposes of vehicular traffic and is maintained by the Town Board.

Road

A right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, freeway, parkway, thoroughfare, road, avenue, boulevard, lane, trail, way or place, or however otherwise designated; however, not including privately owned driveways, easements and/or access routes.

School

A public or private institution of learning and education which meets the compulsory attendance requirements of Minnesota Statute 120A.

Service Provider

Any individual or entity which provides wireless telecommunication services.

Shooting

The firing of firearms of any kind whatsoever.

Sign

A name, identification, description, display, illustration, structure, or device which is affixed to, or painted, or represented directly or indirectly upon a building or other outdoor surface or a piece of land, and which directs attention to an object, product, place, activity, person, institution, organization, or business.

Single Family Dwelling

A freestanding (detached) permanent structure, designed for habitation by human beings, designed for one family.

Single-User Tower

A tower to which is attached only the antennae of a single service provider, although the tower may be designed to accommodate the antennae of multiple users.

Solar Collector

A device, structure or a part of a device or structure for which the primary purpose is to capture sunlight and transform it into thermal, mechanical, chemical or electrical energy.

Solar Energy

Radiant energy received from the sun that can be collected in the form of heat or light by a Solar Collector.

Solar Energy System (SES)

A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting, or provide for the collection, storage and distribution of solar energy for space heating, cooling, electricity generation, or water heating, but shall not include skylights or solar tubes.

Solar Energy System, Ground-Mounted

A freestanding solar system mounted directly to the ground using a rack, pole, or stabilizers or similar apparatus rather than being mounted on a building.

Solar Energy System, Accessory (ASES)

A solar energy system that is accessory to the primary land use, and designed to supply energy solely for the primary use.

Solar Energy System, Roof or Building-Mounted

Solar energy system (typically panels) that are mounted on the roof or building using brackets, stands or other apparatus.

Solar Panel

A panel that is designed to absorb the sun's rays as a source of energy for generating electricity or heating. A solar panel is a packaged, connected assembly of typically 6' x 10' solar cells.

Story

The portion of a building included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, then the space between the floor and the ceiling above it. A basement shall not be counted as a story.

Structural Alteration

Any change, other than incidental repairs, to the supporting members of a building, including foundations, bearing walls or partitions, columns, beams, girders, or any structural change in the roof or exterior walls.

Structure

Anything which is built, constructed, or erected; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character. Among other things, structures include but are not limited to buildings, gazebos, decks, retaining walls, walls, fences, and swimming pools.

Subdivide

The division by plat or deed of a piece of property into two or more lots, plots, sites, tracts, parcels, or other land divisions.

Swimming Pool

A swimming pool is any structure intended for swimming or recreational bathing that contains water over 24 inches (610mm) deep. This includes in-ground, above-ground and on-ground swimming pools; hot tubs; and portable and non-portable spas.

Temporary Structure

A structure whose use is permitted only temporarily, that is, for not more than 180 days. "Temporary" refers to the permitting and the use of the structure, not to any

physical characteristics of the structure. The physical requirements for a “temporary structure” are therefore no different than those for any other similar structure whose use is not specifically temporary.

Tower

Any ground- or roof-mounted pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces, and masts intended primarily for the purpose of mounting or supporting an antenna, or antenna for wireless telecommunication purposes which is taller than 15 feet, including roof antennas.

Town Board

Town Board means the board of supervisors of Eureka Township, Dakota County, Minnesota.

Township

Township means geographical boundaries of Eureka Township, Dakota County, Minnesota.

Use or Structure, Non-Conforming

Any structure or use lawfully established prior to the effective date of these Ordinances but which is not permitted under the provisions of the Ordinances. (Resolution 59, 8-13-2007, Ord. 2010-1, 6-15-2010)(delete?)

Use, Permitted

A use which is expressly permitted within a district established by these Ordinances, provided that such use conforms with all requirements, ordinances and performance standards of such district.

Variance

Written approval waiving the literal provisions of these Ordinances in instances where the strict enforcement would cause practical difficulties which are not created by the owner.

Wireless Telecommunication Services

Licensed commercial wireless telecommunications services include cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

Yard

A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky, except as permitted in the Ordinances. The yard extends along the lot line at right angles to such lot line, to a depth or width specified in the setback ordinances for the zoning district in which such lot is located.

Yard, Front

A yard extending along the full width of the front lot line between side lot lines and extending from the abutting street, right-of-way line, to depth required in the setback ordinances for the zoning district in which such lot is located.

Yard, Rear

The portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line, and extending for the full width of the lot.

Yard, Side

The yard extending along the side lot line between the front and rear yards to a depth or width required by setback ordinances for the zoning district in which such lot is located.

Zoning Administrator

The duties of the Zoning Administrator hereunder shall be undertaken by the Town Clerk.

Zoning Amendment

A change authorized by the governing body either in the allowed use within a district or in the boundaries of a district.

Zoning District

An area or areas within the limits of the Township for which the ordinances and requirements governing use are uniform.

Zoning Ordinances

Zoning ordinances controlling the use of land as adopted by Eureka Township Town Board.

Chapter 5: Process for Changing Zoning Ordinance and Mineral Extraction Ordinance

Section 1 - ZONING

- A. An amendment to the text of Ordinance 3, Zoning Ordinances, the zoning map, or Ordinance 6, Mineral Extraction Ordinance, may be initiated by the Town Board, the Planning Commission, or by application of an affected property owner. Individuals wishing to initiate an amendment to the Zoning Ordinance or Mining Extraction Ordinance shall fill out an application and submit it to the Town Clerk, together with a fee as set forth in Ordinance 7.
- B. A public hearing on the rezoning application or request for text amendment to the Zoning Ordinance or Mineral Extraction Ordinance shall be held by the Planning Commission after the request for rezoning or text amendment has been received. Notice of said hearing shall be published in the official newspaper(s) designated by the Town Board at least ten (10) days before the day of the hearing. Notification shall be given by first class mail to all owners of record with the Dakota County Department of Property Taxation of land located in the Township at the time the application was filed with the Town Clerk. The failure of such notice to reach any resident, so long as the notice was attempted by the Town, shall not invalidate the proceeding. The Planning Commission shall make its report to the Town Board at the next regular meeting of the Town Board following the hearing recommending approval, disapproval, or modified approval of the proposed amendment.
- C. No application of a property owner for an amendment to the text of the Zoning Ordinance, zoning map or text of the Mineral Extraction Ordinance shall be considered by the Planning Commission within the one-year period following a denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

ORDINANCE 2: TOWNSHIP ADMINISTRATION

CHAPTER 1: TOWN BOARD MEETINGS30

CHAPTER 2: BOARD OF ADJUSTMENTS AND APPEALS31

CHAPTER 3: PLANNING COMMISSION.....33

CHAPTER 4: SPECIAL COMMITTEES AND TASK FORCE39

CHAPTER 5: TOWNSHIP CONTRACTORS40

CHAPTER 6: TOWNSHIP STAFF41

CHAPTER 7: TOWNSHIP RECORDS44

ORDINANCE 2: TOWNSHIP ADMINISTRATION

Chapter 1: Town Board Meetings

Section 1 - REGULAR MEETINGS

The date and time of the regular meetings shall be established at the annual Reorganizational Town Board meeting. Any regular meeting falling upon a holiday shall be held on the next following business day at the same time and place. All meetings, including special meetings and continued meetings, shall be held in the Town Hall unless the Town Board decides otherwise at a prior meeting, or meeting at the Town Hall is impossible, in which case the new meeting location will be posted. (Resolution 59, 8-13-2007)

All regular meetings, special meetings and emergency meetings shall comply with the notice requirements set forth in the Open Meeting Law, Minnesota Statutes Chapter 13D.

A. Other meetings

1. Special Meetings

Town Board meetings occurring outside the schedule of regular meetings set forth above.

a. Special meetings for the issuance of building permits shall be called only in case of extreme emergency. Except in those cases, applications for building permits will be considered by the Town Board only at its regularly scheduled meetings.

b. All costs of special meetings, including the salaries of the Supervisors and Clerk, those charged by the Township Attorney, Township Consultants or other Town Staff, and the costs of any publication which may be required, will be paid by the person on whose behalf the special meeting is called. (Resolution 59, 8-13-2007)

2. Emergency Meetings

An emergency meeting is a special meeting called because of circumstances that, in the judgment of the Town Board, require immediate action involving protection of the public, peace, health and safety.

Chapter 2: Board of Adjustments and Appeals

Section 1 - PURPOSE

The Town Board shall, pursuant to MSA §462.354, subd. 2, act as the Zoning Board of Adjustments and Appeals and shall have the power to hear and decide requests in the following cases:

- A. Appeals. Decide appeals, where it is alleged that there is an error in a decision of judgment made by an administrative officer in the enforcement of the Zoning Ordinance.
- B. Interpretation. Interpret the boundary lines between zoning districts when such questions arise and interpret the provisions of the Zoning Ordinance in such a way as to carry out the intent and purpose of the Zoning Ordinance.
- C. Variances. Grant variances or relief from the literal zoning ordinance requirements in accordance with the provisions of Ordinance 3, Chapter 4, Section 16.

Section 2 - GENERAL

The members of the Board of Adjustments and Appeals shall serve without compensation, but may be paid their necessary expenses in attending meetings of the Board of Adjustments and Appeals and in the conduct of the business of the Board of Adjustments and Appeals. The Board of Adjustments and Appeals shall elect a chairman and vice-chairman from among its members, and shall appoint a secretary, who need not be a member of the Board of Adjustments and Appeals. It shall adopt rules for the transaction of its business, and such rules may include provisions for the giving of oaths to witnesses and the filing of written briefs by the parties. The Board of Adjustments and Appeals shall provide a public record of its proceedings that shall include the minutes of its meetings, its findings, and the action taken on each matter heard by it, including the final order. The meetings of the Board of Adjustments and Appeals shall be held at the call of the chairman and at such other times as the Board of Adjustments and Appeals in its rules of procedure may specify.

Meetings of the Board of Adjustments and Appeals shall be held within such time and upon such notice to interested parties, as is provided in its adopted rules for the transaction of its business. The Board of Adjustments and Appeals shall, within a reasonable time, make its order deciding the matter, and shall serve a copy of such order upon the appellant or petitioner by mail. Any party may appear at the hearing in person or by agent or attorney.

The Board of Adjustments and Appeals may reverse or affirm wholly or partly or may modify the order, requirement, decision or determination made by the Town

Board or the Planning Commission and shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The reasons for the Board of Adjustments and Appeals' decision shall be stated in writing. The decision of the Board of Adjustments and Appeals shall be final. (Resolution 59, 8-13-2007)

Section 3 - BUILDING PERMITS

In the event a permit for a building is denied, the Board of Adjustments and Appeals, upon an appeal filed by the owner of the land, shall have the power to grant a permit for a building in such location in any case in which the Board of Adjustments and Appeals finds, upon the evidence and arguments presented to it: (Resolution 59, 8-13-2007)

- A. That the entire property of the appellant of which such area identified for public purposes cannot yield a reasonable return to the owner unless such a permit is granted.
- B. That balancing the interest of the Township and preserving the integrity of the official map and of the comprehensive plan and the interest of the owner of the property in the use of his property and in the benefits of the ownership, the grant of such permit is required by considerations of justice and equity. The Board of Adjustments and Appeals shall specify the exact location, ground area, height and other details as to the extent and character of the building for which the permit is granted. (Resolution 59, 8-13-2007)

Chapter 3: Planning Commission

Section 1 – PURPOSE

This Chapter is enacted for the following purposes:

- A. To encourage sound and harmonious growth of the community and its environs and efficiency and economy in the provision of facilities and services, to ensure maximum returns for expenditure of public funds, and to avoid errors and waste resulting from unplanned and uncoordinated development. (Resolution 59, 8-13-2007)
- B. To plan for the physical development, to recommend a zoning plan for the Township of Eureka and provide rules for the operation thereof.
- C. To prepare and maintain in current form a comprehensive plan with related studies, statement of policies, and ordinances to guide the development of the Township of Eureka.
- D. To establish a Planning Commission under the authority granted by the provisions of Minnesota Statutes Section 462.354.

Section 2 - ESTABLISHMENT; QUALIFICATIONS; TERMS OF OFFICE

Pursuant to Minnesota Statute § 462.354, there is hereby established a Planning Commission, herein after referred to as a “Commission”, which will consist of five (5) members appointed by the Town Board from among the residents of Eureka Township.

A Member of the Town Board shall attend meetings on a monthly rotating basis to observe the proceedings and serve as liaison with the Planning Commission.

Notification of all upcoming openings on the Planning Commission shall be made public. Commission members shall be appointed from among persons in a position to represent the general public interest. Geographic dispersion should be considered as part of the appointment process. No person shall be appointed with private or personal interests likely to conflict with the general public interest. If any Member shall find that the Member’s private or personal interests are involved in any manner coming before the Commission, the Member shall disqualify himself from taking part in action from the matter.

The term of Commission Members shall be three (3) years beginning on May 1 and ending on April 30 three (3) years after.

The Town Board of Supervisors shall appoint Commission Members in April with respect to the terms that commence on the following May 1.

Section 3 - REMOVAL FROM OFFICE; VACANCIES

Any Commission Member may be removed from office for just cause by a minimum of 3 members of the Town Board, provided that the Member is given ten days' advance notice in writing of the proposed action of the Board and an opportunity for a public hearing before the vote is taken. In addition, any Member may be removed for non-attendance at Planning Commission meetings without action by the Town Board according to rules adopted by the Planning Commission.

It shall be the duty of the Chairperson of the Planning Commission to notify the Town Board promptly of any vacancies occurring in the membership. The Town Board shall fill such vacancies within 60 days for the unexpired term of the original appointment.

Section 4 - OFFICERS, RULES, EMPLOYEES, SALARIES AND EXPENSES

The Commission shall elect a Chairperson and Vice-Chairperson, from among the Members. The election of officers shall take place at the May meeting of the Planning Commission.

The Commission shall adopt rules for its governance and for the transaction of its business, and shall keep a written record of attendance at its meetings and of resolutions, transactions, findings and determinations, showing the vote of each Member on each question requiring a vote, or if absent or abstaining from voting, indicating such fact. The records of the Commission shall be a public record.

Subject to the approval of the Town Board and within limits set by appropriations or other funds made available, the Commission may employ such staff, technicians, and experts as may be deemed proper, and may incur such other expenses as may be necessary and proper for the conduct of its affairs.

Members of the Commission shall receive such salaries or fees for their services thereon, as set by the Town Board at the reorganizational meeting. Members may receive necessary travel per diem and other expenses, while on official business for the Commission, if funds are available for this purpose. (Resolution 59, 8-13-2007)

Section 5 - TIME AND PLACE OF MEETING

The Planning Commission shall have monthly regular sessions at the times and on the days shown by the schedule of regular meetings. The schedule shall be adopted by resolution of the Board of Supervisors at the reorganizational meeting and shall be kept on file at the Township's primary office and at the clerk's office. Continued meetings of the Commission and special meetings of the Commission shall be set by the Commission on days and at times that the Commission may deem proper. All meetings shall be held in the Town Hall or at a place designated

on the schedule by the Commission. If the Commission decides to hold a regular meeting at a time or place different from the time or place stated in its schedule of regular meetings, it shall give the same notice of the meeting that is provided for a special meeting.

Special meetings may be called by the Chairperson or any two Members in writing, filed with the clerk at least three (3) days prior to the time specified for the meeting, excluding Sundays and holidays. The demand for the special meeting shall specify the date, time, place and purpose of the special meeting. At least three (3) days prior to the meeting, excluding Sundays and holidays, the clerk shall mail a notice of the special meeting to all Members; the notice shall state the date, time, place and purpose of the special meeting. The clerk shall prepare an affidavit that shows the mailing of the notice in the manner here prescribed. The clerk shall post written notice of the date, time, place and purpose of the special meeting on the principal bulletin board at the Town Hall. The notice shall also be mailed or otherwise delivered to each person who has filed a written request for notice of special meetings with the Town Board. This notice shall be posted and mailed or delivered at least three (3) days before the date of the meeting, excluding Sundays and holidays. A person filing a request for notice of special meetings may limit the request to notification of meetings concerning particular subjects, in which case the clerk is required to send notice to that person only concerning special meetings involving those subjects. The Commission may establish an expiration date for request for notices of special meetings and require refiling of the request once each year. Not more than sixty (60) days nor less than thirty (30) days before the expiration date of a request for notice, the clerk shall send notice of the refiling requirement to each person who filed during the preceding year.

Emergency meetings may be called by the Chairperson or any two Members in writing filed with the clerk. The demand for the emergency meeting shall specify the date, time, place and purpose of the emergency meeting. As soon as possible the clerk shall telephone all Members and leave a message that informs the member of the date, time, place and purpose of the meeting; if a Member cannot be reached by telephone, then the telephone message may be left with an adult at the residence of the member or on the answering machine of the Member at the Member's residence. If the message cannot so be left, the clerk shall deliver a written notice to the residence of the Member and tape it to the front door of the residence. The clerk shall make good faith efforts to provide notice of the meeting to each news medium that has filed a written request for notice if the request includes the news medium's telephone number. Notice of the emergency meeting shall be given by telephone to each requesting news medium. Notice shall be provided to each news medium which has filed a written request for notice as soon as reasonably practicable after notice has been given to the Members. Notice shall include the date, time, place and purpose of the emergency meeting. Posted or published notice of an emergency meeting shall not be required. An "emergency" meeting is a meeting called because of circumstances that, in the judgment of the Commission, require immediate consideration by the Commission.

If a person receives actual notice of a meeting of the Commission at least 24 hours before the meeting, whether a special or emergency meeting, then all notice requirements of this Section are satisfied with respect to that person, regardless of the method of receipt of notice.

Section 6 - FUNCTIONS, POWERS AND DUTIES

The functions, powers and duties of the Commission shall be, in general:

- A. To acquire and maintain in current form such basic information and background data as is necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions.
- B. To prepare and keep a current comprehensive general plan for meeting present requirements, and such future needs as may be foreseen.
- C. To establish principles and policies for guiding action affecting development in the Township and its environs.
- D. To prepare and recommend to the Town Board ordinances and other proposals promoting orderly development along lines indicated as desirable by the Comprehensive Plan.
- E. To determine whether specific proposed development conforms to the principles and requirements for the Comprehensive Plan and the Ordinances.
- F. To keep the Town Board and the general public informed and advised as to all planning and development matters.
- G. To conduct such public hearings, as may be required to gather information necessary for the drafting, establishment, and maintenance of a Comprehensive Plan and Township Ordinances relating to it, and to establish public committees for the purpose of collecting and supplying information necessary for the Plan, or for the purpose of promoting the accomplishment of the Plan in whole or in part.
- H. To perform other duties which may be lawfully assigned to it, or which may have bearing on the preparation or accomplishment of the Plan.

In connection with its duties, and within the limit of its funds, the Commission may make, cause to be made, or obtain maps, aerial photographs and surveys, and special studies of the location, condition, and adequacy of specific facilities of the Township and, as appropriate, its environs, including, but not limited to: studies on

housing; commercial and industrial facilities; economic development; parks; playgrounds and other recreational facilities; schools; public and private utilities; and traffic, transportation, and parking.

The Chairperson or Vice-Chairperson of the Planning Commission shall follow the established policy of the Town Board in requesting a Township Attorney or other town employee to be present at any Planning Commission meeting to assist in the performance of the Commission's duties.

All town employees shall, upon request within a reasonable time, furnish to the Commission or its employees or agents such available records or information as may be required in its work. The Commission, or its employees or agents, may in the performance of official duties enter upon lands and make examinations or surveys in the same manner as other authorized Town Board agents or employees, and shall have such other powers as are required for performance of official functions in carrying out the purpose of these Ordinances. (Resolution 59, 8-13-2007)

Section 7 - PLAT APPROVAL

With respect to applications for plats, the Planning Commission shall hold the public hearing required by statute. The Planning Commission shall recommend to the Board whether the proposed plat should be approved or disapproved. If the Planning Commission has not made its recommendation in a timely fashion to allow the Board to approve or disapprove the proposed plat within the timeframes set by Minnesota Statute § 462.358, the Board may proceed to act on the application for the plat without the recommendation of the Planning Commission.

Section 8 - BUILDING PERMITS

No building permit for any structure to be erected on any property within the Township shall be issued until the application for the permit has been referred to the Planning Commission for review and a recommendation as to whether the building permit should be approved or disapproved and until the Planning Commission's review and recommendation has been made. An attested copy of the review and recommendation shall be forwarded to the Town Board prior to action by the Town Board in approving or denying the building permit. If the report and recommendation is not received by the Town Board in a timely manner so as to enable the Town Board to act on the building permit application within any timeframe set by law or Ordinance, the Town Board may nonetheless approve or disapprove the building permit application without the review and recommendation from the Planning Commission.

The review and recommendation of the Planning Commission is advisory only to the Town Board and shall not be considered dispositive of the action to be taken by the Town Board.

Section 9 - CHANGES

No change shall be made in the present zoning of land, or in the zoning plan or future street or public land plan or ordinances governing the platting of land, until the proposed change has been referred to the Planning Commission for a review and recommendation and until such review and recommendation has been made. No Ordinance or resolution establishing any such plans or specifications shall be adopted by the Town Board until such Ordinance or resolution has been referred to the Planning Commission for review and recommendation and until such review and recommendation has been made.

An attested copy of the Commission's reviews and recommendations shall be forwarded to the Town Board. If the reviews and recommendations are not received by the Town Board in a timely fashion so as to enable the Town Board to act on the matters within the timeframes required by law or Township ordinance, the Town Board may proceed to act on the actions without the reviews and recommendations of the Planning Commission.

The reviews and recommendations are advisory only to the Town Board and are not dispositive on the actions to be taken by the Town Board.

Section 10 - RECOMMENDED PUBLIC WORKS

As a part of its duties, the Planning Commission, upon request by the Town Board, shall prepare a list of public works which it believes are necessary and desirable to be constructed. Such list shall be arranged in order of preference with recommendations as to which projects shall be constructed with Township general funds and which with road and bridge funds, and such other methods of financing as it deems advisable.

Section 11 - CONFLICTS WITH OTHER ORDINANCES; SEPARABILITY

All ordinances or portions of ordinances in conflict herewith are hereby repealed. Should any section of this Ordinance be held unconstitutional or void, the remaining provisions shall nevertheless remain in full force and effect.

Chapter 4: Special Committees and Task Force

The Town Board may create such committees, standing or special, as it deems necessary. Such committees shall perform such duties, as the Town Board may require. Any matter brought before the Town Board for consideration may be referred by the presiding officer to the appropriate committee or to a special task force appointed by him/her for a written report and recommendation before it is considered by the Town Board as a whole. The special committee or task force shall consist of at least 5 individuals appointed by the Town Board. The Town Board shall determine the maximum number of individuals to serve on the task force. Each special committee or task force report shall be signed by a majority of the members and shall be filed with the clerk prior to the Town Board meeting at which it is to be submitted. Minority reports may be submitted. Each committee or task force shall act promptly and faithfully on any matter referred to it. Each special committee or task force shall have a defined mission and time for expiration of the mission.

Chapter 5: Township Contractors

The policy and procedure by which the Town Board will hire contractors is set forth in Minnesota Statutes.

Chapter 6: Township Staff

Section 1 – CLERK AND TREASURER

- A. The offices of Clerk and Treasurer have been combined and one person shall be appointed by the Town Board to serve as both Clerk and Treasurer.
- B. The town Clerk's duties are as follows:
 - 1. To act as clerk of the town board and keep in the clerk's office a true record of all of its proceedings;
 - 2. Unless otherwise provided by law to have custody of the records, books, and papers of the town and file and safely keep all papers required by law to be filed in the clerk's office;
 - 3. To record minutes of the proceedings of every town meeting in the book of town records and enter at length every order or direction and all rules and ordinances made by the town meeting;
 - 4. To file and preserve all accounts audited by the town board or allowed at a town meeting and enter a statement of them in the book of records;
 - 5. To record every request for a special vote or special town meeting and properly post the requisite notices of them;
 - 6. To post, as required by law, fair copies of all bylaws made by the town, and make a signed entry in the town records, of the time when and the places where they were posted and the record in full all Township Ordinances passed by the town board;
 - 7. To furnish to the annual meeting of the town board of audit every statement from the county treasurer of money paid to the town treasurer, and all other information about fiscal affairs of the town in the clerk's possession, and all accounts, claims, and demands against the town filed with the clerk; and
 - 8. Maintain permanent and current records of the Ordinances, including but not limited to all maps, amendments, and special uses, variances, appeals and applications.
 - 9. Receive, file, and forward all applications for appeals, variances, special uses or other matters to the designated official bodies.
 - 10. Perform the duties of the Zoning Administrator.
 - 11. To perform any other duties required by law.
- C. The Town Treasurer's duties are as follows:
 - 12. To receive and take charge of all money belonging to the town, or which is required to be paid into its treasury, and to pay it out only upon the lawful order of the town or its officers;
 - 13. To preserve all books, papers, and property pertaining to or filed in the treasurer's office;

14. To keep a true account of all money received as treasurer and the manner in which it is disbursed, in a book provided for that purpose, and provide the account, with the treasurer's vouchers, to the town board of audit, at its annual meeting, for adjustment;
15. To deliver, on demand, all books and property belonging to the treasurer's office, and all money in the treasurer's hands as treasurer, to a qualified successor;
16. To keep in a suitable book a register of all town orders presented for payment that cannot be paid for want of funds, with the date presented, and to endorse upon the back of each the words "not paid for want of funds," with the date of the endorsement, signed by the treasurer;
17. To draw from the county treasurer, from time to time, money received by the county treasurer for the town, and receipt for it;
18. To make and file with the town clerk, within five days preceding the annual town meeting, a statement, in writing, of the money received from the county treasurer and all other sources, and all money paid out as town treasurer. The statement shall show the items of money received and from whom, on what account and when each was received. The statement shall show the items of payment and to whom, for what purpose, when and the amount of each that was made, and the unexpended balance on hand; and
19. To perform other duties required by law.

Section 2 - TOWNSHIP ATTORNEY

The Town Board may employ an attorney for Township business including the prosecution or defense of actions at law or other proceedings in which the Township may be interested.

Section 3 - BUILDING OFFICIAL

The application, administration and enforcement of the Township Building code shall be in accordance with the Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by Minnesota Statutes Section 16B.62(1), as it may be amended from time to time. The enforcement of the Building code shall be enforced by a Minnesota Certified Building Official designated by the Town Board to administer the Ordinances. The Town Board of Eureka Township shall instruct the Township building official or deputy inspector to enforce the Building code and perform the following duties:

- A. Conduct inspections of buildings and use of land to determine compliance with the terms of the Township Building code.
- B. Serve as ex-officio non-voting member of the Planning Commission

- C. Receive, file and forward all applications for appeals, variances, special uses, building permits or other matters to the designated official bodies.

Section 4 – NEGLECT OF DUTY

A Township staff member who refuses or neglects to comply with this Chapter shall forfeit office.

Chapter 7: Township Records

The clerk shall have custody of the records, books and papers of the Township and file and safely keep all papers required by law to be filed in the clerk's office.

The Township's official records shall be stored in a locked facility in the town hall. The Clerk shall have direct access to the Township records. Members of the Town Board shall have access to the official records via the Clerk. If any said Township resident seeks to review a particular document he or she shall make an appointment with the Clerk.

ORDINANCE 3: ZONING ORDINANCES

CHAPTER 1: GENERAL PROVISIONS46

CHAPTER 2: ZONING DISTRICTS50

CHAPTER 3: BUILDABLE LOTS53

CHAPTER 4: BUILDING PERMITS, BUILDING ORDINANCES, AND PERFORMANCE
STANDARDS.....61

CHAPTER 5: COMMERCIAL AGRICULTURE94

CHAPTER 6: AIRSTRIP POLICY97

CHAPTER 7: DOMESTIC AND NON-DOMESTIC ANIMALS98

CHAPTER 8: SIGNS ON PRIVATE PROPERTY103

CHAPTER 9: FENCES 107

ORDINANCE 3: ZONING ORDINANCE

Chapter 1: General Provisions

Section 1 - SHORT ORDINANCE

This Ordinance shall be known, cited and referred to as the Eureka Township Zoning Ordinance.

Section 2 - INTENT AND PURPOSE

A. Intent

It is the intent of this Ordinance to identify and classify all lands within the boundaries of Eureka Township, Dakota County, Minnesota, according to their most logical and appropriate long term use, as established in the Eureka Township Comprehensive Plan. (Resolution 59, 8-13-07)

B. Purpose

It is the purpose of this Ordinance to:

1. Protect the public health, safety, morals, comfort, convenience, and general welfare.
2. Protect and preserve lands identified for long-term agricultural use.
3. Promote well-managed and staged development of residential, commercial, industrial, recreational, and public areas.
4. Conserve and manage the use of natural resources.
5. Provide for the compatibility of different land uses and the most appropriate use of land throughout the Township.

Section 3 - COMPLIANCE WITH ORDINANCE

No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Ordinance.

Section 4 - NON-CONFORMING USES AND STRUCTURES

Any structure or use existing as of September 7, 2004, and which did not conform to the provisions of Township Ordinances as then enacted, is deemed a legal non-conforming use (grandfathered use) may be continued subject to the following conditions:

- A. Except as provided in Section 5 below, no such use shall be expanded or enlarged except in conformity with the provisions of this Ordinance.
- B. If a non-conforming use is discontinued for a period of one year, further use of the structures or property shall conform to this Ordinance. All instances of non-conforming uses which have been discontinued for a period of twelve consecutive months shall be void.
- C. If a non-conforming use is replaced by another use, the new use shall conform to this Ordinance.
- D. Any non-conforming sewage disposal system may be continued for a period of five years after the effective date of this Ordinance, after which such non-conforming use shall cease.
- E. Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.

Section 5 - REGISTRATION OF LEGAL NON-CONFORMING USES

All legal non-conforming uses in the Township are encouraged, but not required, to register pursuant to the terms of this section. Only those uses so registered on or before December 31, 2004, shall be entitled to the benefit of the terms of this section. Uses not registered in conformity with the terms of this section shall be governed by the provisions of Section 4 above. The deadline for the registration of legal non-conforming uses was December 31, 2004.

- A. All registrations of legal non-conforming uses must be on a form prescribed by the Town Board, and must be accepted by the Town Board as a complete registration in order for the registrant to receive the benefits hereunder.
- B. Forms, when filled out by Registrants, shall be submitted to the Planning Commission for consideration at the next regularly scheduled Planning Commission meeting when the registration can be placed on the agenda. The Planning Commission shall place the registration on the agenda and shall review the application. The applicant shall attend the hearing and answer any questions about the use that the Planning Commission or

members of the public may have. The Planning Commission may request an inspection of the property to verify the scope of the proposed use.

Once the Planning Commission has completed its review of the application it shall be accepted for filing. The acceptance for filing of the application does not constitute a statement by the Town Board that the applicant's use is legal. If the applicant and the Planning Commission cannot agree on the completeness or the appropriateness of the registration, then the matter shall be taken up by the Town Board at its next regularly scheduled meeting where the matter can be placed on the agenda. The Town Board shall determine whether to accept the registration for filing.

- C. Registered legal non-conforming uses may be altered as long as the impact on neighboring properties remains the same. Any alteration of a registered legal non-conforming use which may alter the impact on neighboring properties must go through the expansion process set forth below. Impacts include, but are not limited to, noise, hours of operation, number of trips, sounds, view and any other effect or observable activity associated with the use which might be argued to negatively impact on the health, safety, welfare, and enjoyment of property of adjoining property owners.
- D. Registered legal non-conforming uses may be expanded pursuant to Minn. Stat. 462.357 Subd. 1e(2), as follows:
 - 1. A public hearing shall be held on the proposed expansion.
 - 2. Expansion will be allowed only in conformity with conditions and limitations such as may be required by the Town Board to prevent and abate nuisances, and to protect the public health, welfare, or safety.
 - 3. Whether to permit expansion of a legal non-conforming use is a discretionary decision of the Town Board. Owners and operators of legal non-conforming uses do not have an automatic right to expansion.
 - 4. When determining whether to grant an expansion request, the Town Board shall consider and make findings regarding:
 - a. The additional nuisance impact, if any, of the proposed growth.
 - b. The applicant's history of Township Ordinance compliance.
 - c. Input from neighbors and residents.

- d. What reasonable conditions, including whether there should be a prohibition on further expansions, should be imposed on the expanded legal non-conforming use.

Chapter 2: Zoning Districts

Section 1 - AGRICULTURE DISTRICT

A. Intent

The Agriculture District is established for the purpose of protecting viable agricultural lands from non-farm influence; retaining valuable areas for conservation purposes; preventing scattered non-farm growth; and securing economy in governmental expenditures for public services, roads, utilities and schools. (Resolution 59, 8-13-2007)

B. Permitted Uses and Structures

The following uses are permitted uses and structures in the Agriculture District:

1. Any and all forms of commercial agriculture and commercial horticulture, as defined by this Ordinance.
2. Agricultural buildings and accessory structures to agricultural buildings. (Ord. 2010-1, 6-14-2010)
3. Farm drainage and irrigation systems.
4. Forestry, grazing and gardening.
5. Single-family dwelling. (Ord. 2010-1, 6-14-2010)
6. Accessory structures to single-family dwellings, such as detached private garages, decks, swimming pools, non-illuminated signs, fences, tool sheds, and other such structures, for the storage of domestic supplies and equipment. Mobile homes, trucks, semi-trailers, trailers, recreational vehicles (RVs), and campers, shall not be used as storage structures. (Resolution 59, 8-13-2007, Ord. 2010-1, 6-14-2010)
7. Historic Sites.
8. Home occupations.
9. Private stables.
10. Private dog kennels. (Resolution 59, 8-13-2007)

11. Cell phone towers or wireless communication facilities as delineated in Ordinance 3, Chapter 4, Section 14, provided they otherwise satisfy the requirements of said Chapter. (Resolution 59, 8-13-2007)
12. Accessory Solar Energy Systems, which are designed to generate ten (10) kilowatts of power or less are allowed as accessory uses and structures in all districts, provided that the requirements of Ordinance 3, Chapter 4, Section 13, Clause C are met.

C. Conditional Uses and Structures

The following conditional uses may be approved by the Town Board in the Agricultural district, provided that the provisions and requirements in Chapter 4 of this Ordinance are fulfilled:

1. Churches, cemeteries, airports, schools, local government buildings and facilities, and government-owned facilities for the maintenance of roads and highways.
2. Agricultural service establishments primarily engaged in performing agricultural or horticultural services on a fee or contract basis. (Resolution 59, 8-13-2007)
3. Public utility and public service structures including electric transmission lines and distribution substations, gas regulator stations, communications equipment and buildings, pumping stations and reservoirs.
4. Wind energy conversion systems (WECS) and alternative energy systems, provided that they otherwise satisfy the requirements of Ordinance 3, Chapter 4, Section 14B. (Resolution 59, 8-13-2007)
5. Cell phone towers or wireless communication facilities as delineated in Ordinance 3, Chapter 4, Section 14, provided they otherwise satisfy the requirements of said section 14. (Resolution 59, 8-13-2007)
6. On-site advertising signs larger than 50 square feet in size. (Ord. 2010-1, 6-14-2010)
7. Signs illuminated by a fixed light or lights. (Ord. 2010-1, 6-14-2010)
8. Single-family dwelling on a Pre-1982 Lot of Record, provided that the requirements of Ordinance 3, Chapter 3, are met. (Ord. 2010-6, 12-13-2010)

9. Feedlots, provided that they otherwise satisfy the requirements of Ordinance 3, Chapter 5, Section 2.
10. Ground-Mounted Accessory Solar Energy Systems whose generating capacity is greater than ten (10) kilowatts, but not more than one hundred (100) kilowatts provided that the requirements of Chapter 4, Section 13, Clause C (1)(b)(iii) are met.
11. Off-site advertising signs larger than fifty (50) square feet.

D. Interim Uses and Structures (Resolution 59, 8-13-2007)

1. Mining and extraction operations, provided that they otherwise satisfy the requirements of the Mining Ordinances located at Ordinance 6. (Resolution 59, 8-13-2007)
2. Personal use airstrips as defined by the Federal Aviation Administration (FAA), provided that they otherwise satisfy the requirements of Ordinance 3, Chapter 6. (Resolution 59, 8-13-2007, Ord. 2010-1, 6-14-2010)

E. Prohibited Uses and Structures

All other uses and structures which are not specifically permitted as a right or by Conditional Use Permit or Interim Use Permit, including public stables and boarding of dogs, shall be prohibited in the Agricultural District. (Resolution 59, 8-13-2007)

Chapter 3: Residential Buildable Lots

SECTION 1. PURPOSE This Chapter preserves density, lot size requirements, and recognition of pre-April 12, 1982, Lot of Record grandfathering ordinances described in the prior Ordinance version. The Town Board of Eureka is expanding the flexibility in a limited way to reposition existing residential building rights to better serve property owners, encourage preservation of open agricultural land, and encourage non-development of substandard size parcels. The previous Cluster transfer feature is herein modified to allow moving residential building rights to non-adjacent property as well as title transfer of a residential building right to another owner of property within the Township.

SECTION 2. DENSITY AND STANDARDS FOR BUILDABILITY.

- A. Residential use of land in any zone in the Township is limited to one single-family dwelling per quarter-quarter section as a permitted use except as provided in this Chapter. A single-family dwelling may be constructed, as a conditional use, upon a Pre-1982 Lot of Record following application and proof to the Town Board's satisfaction that:
1. the lot proposed for building is a Pre-1982 Lot of Record;
 2. there are no existing dwellings on the parcel to be built upon;
 3. the proposed construction meets all other criteria for a Conditional Use Permit as stated in Chapter 4, Section 14(A) of this Ordinance; and
 4. construction on the lot will comply with the other standards of this Section.
- B. Standards Applicable to All Lots:
1. The quarter-quarter section in which the lot is located is not subject to a density restriction created pursuant to Section 3(C) of this Ordinance or a prior Town Ordinance governing Clustering.
 2. A home can be built on the lot that complies with all dimensional and setback requirements contained in Section 4 of this Chapter, unless the lot meets the criteria of Sections 2(A) and 3(A) of this Chapter.
 3. The lot will support a sewage treatment system consistent with these Ordinances and State, Local, and Federal requirements for the same.
 4. The lot is a separately conveyed parcel with a separate legal description and its own Property Identification Number (PIN) assigned by the Dakota County Assessor's Office.

5. Applicant shall provide evidence that a Wetland Determination has been made by the Dakota County Soil and Water Conservation District as part of an application for a subdivision (lot split), to transfer in a housing right, or an application for a building permit.

SECTION 3. PLATTING OF LAND, CLUSTERING, AND LOT/PARCEL SPLITS

- A. The Town Board may approve a Conditional Use Permit for a Pre-1982 Lot of Record which fails to meet one or more of the current standards in Section 4 of this Chapter, but met the setback and lot dimension standards in effect at the time of lot creation. In reviewing an application for a CUP on such a lot, the Town Board must find that the lot has been held in separate ownership since April 12, 1982. Any substandard Pre-1982 Lot of Record abutting other land under the same ownership following April 12, 1982, must be combined to form buildable lots that are not substandard. (Ordinance 2010-06, December 13, 2010)
- B. A lot of record that after creation and recording was subsequently consolidated with an abutting lot for the purposes of real estate sale or county tax consolidation, shall be deemed a buildable lot for single-family residential purposes provided it meets all of the following requirements: (Resolution No. 54, 4-9-2007, Resolution 59, 8-13-2007, Ordinance 2010-06, 12-13-2010)
 1. The lot(s) involved in the consolidation shall be re-created to conform to the exact boundaries and dimensions as they existed when the lot of record was originally created. (Resolution No. 54, 4-9-2007)
 2. The re-creation of the lots shall be completed through an approved lot split that shall be approved by the Eureka Township Board and filed in the Office of the Dakota County Recorder prior to application for any building permit. (Resolution No. 54, 4-9-2007, Ordinance 2010-06, December 13, 2010)
 3. Any use or structure currently existing on the re-created lots shall conform to all building setback and driveway requirements of this Chapter. (Resolution No. 54, 4-9-2007)
- C. Clustering. The intended purpose of this Section 3C is to set the standards by which an owner of a parcel with full control of a residential building right may transfer the residential building right to other land or to another owner subject to the limitations and restrictions contained herein. It may be transferred only to other land in the Township provided all the following conditions are met:
 1. The source of the residential building right is fully controlled by the property owner in the following circumstances:

- (a) When all of the land in a quarter-quarter section is under the same ownership, and no residence has been built within the quarter-quarter section.
 - (b) Pre-1982 Lots of Record have a fully-controlled residential building right except any substandard Pre-1982 Lot of Record abutting other land under the same ownership following April 12, 1982, must be treated as combined to form buildable lots that are not substandard. Only the resulting parcels that then would be buildable lots have a building right that may be transferred and all component parcels must have it recorded as described further below that they do not have a residential building right after the transfer is made.
 - (c) Parcels that have previously received a residential building right transfer that is recorded with the Dakota County Recorder.
2. The quarter-quarter section which contains a receiving parcel is limited to a maximum of four (4) building-eligible lots of record within the quarter-quarter section. The maximum number of residential building rights that may be transferred to receiving land within any single quarter-quarter section is four minus the number of existing single-family homes and undeveloped building-eligible Pre-1982 Lots of Record existing in the quarter-quarter section at the time of transfer.
 3. The landowner(s) shall execute a Clustering Agreement consented to by the Township, which shall be recorded by the landowner(s) within ninety (90) days of its approval by the Town Board with the Dakota County Recorder.
 - (a) The Clustering Agreement shall identify the Pre-1982 Lot of Record or the parcel and quarter-quarter section from which a building right has been transferred, and shall state that any residential building right on that Pre-1982 Lot of Record or parcel and quarter-quarter section no longer exists and has been clustered onto other land. The agreement shall identify by legal description the parcel to which the residential building right has been clustered.
 - (b) The Clustering Agreement shall be recorded against all properties required to be identified by paragraph 3(a) above. Written proof of such recording must be presented by the landowner to the Town Clerk within one hundred and twenty (120) days after the approval of the cluster agreement by the Township.
 - (c) The Clustering Agreement must be executed and recorded by the

landowner(s), and written proof of such recording presented to the town clerk, before the Township will consider any application for a building permit, or before transfer of any of the lands described in the cluster agreement, whichever occurs first.

4. Each dwelling unit and lot proposed for construction pursuant to a Clustering Agreement must meet the requirements as set forth in Chapter 3: Zoning Districts, Section 4: Setbacks and Lot Dimensions. (Entire Section C. Cluster Ord. 2010-1, 6-14-2010) Any lot including a Substandard Pre-1982 Lot of Record whose residential building right has been transferred out is not eligible to receive a transfer in.

SECTION 4. SETBACKS AND LOT DIMENSIONS

- A. Each dwelling unit shall be located on a separately conveyed parcel which shall equal or exceed 2 acres.
- B. The parcel on which a dwelling unit is located shall have at least 33 feet of frontage along a public road.
- C. Lot width shall be at least 250 feet at the dwelling setback.

Except for retaining walls, fences and gates, all structures shall be set back as follows for permitted and conditional uses.

1. Side yard setbacks for structures: 30 feet
2. Rear yard setbacks for structures: 30 feet
3. Structure Setback from:
 - (a) Township road 100 feet from centerline
 - (b) County road 110 feet from centerline.
- D. All dwellings shall be separated by at least 250 feet from the nearest agricultural building, however this restriction shall not apply where the dwelling and the agricultural building are in common ownership. (Ord. 2010-1, 6-14-2010)

SECTION 5. DRIVEWAYS/ACCESS TO PUBLIC RIGHT-OF-WAY

- A. Access To Buildable Lot

At the time of application for a permit to erect any structure in the Township of Eureka, the applicant must:

1. Demonstrate that the structure has access to a public road across land owned solely by the applicant, in which case the provisions of Ordinance 4, Chapter 2, Section 3(A) – Road Specifications shall not apply; or (Resolution 59, 8-13-2007)
 2. Demonstrate that a road exists which meets the requirements of Ordinance 4, Chapter 2, Section 3(A) – Road Specifications and provide access from the proposed structure to an existing public road; or
 3. Alternate access may be made via permanent easement or right of use for the purpose of joining and sharing a portion of an existing driveway meeting Ordinance 4, Chapter 2, Section 3(A) – Road Specifications requirements. No more than four properties may share a driveway. Legal evidence of such an alternate private agreement shall be recorded with Dakota County referencing the involved parcels and maintenance arrangement, and a copy of the recording receipt shall be presented as part of the building permit application and be clearly referenced on the site plan; or
 4. In lieu of the foregoing, enter into an agreement with the Town Board to construct a road to meet the specifications set forth above and furnish to the Township a surety bond to guarantee the performance of the road construction agreement, said surety bond to be in an amount determined by the Township Engineer and in a form approved by the Township Attorney.
- B. Driveways shall meet the following requirements: (Resolution 59, 8-13-2007 (B.1.-3.))
1. Driveways that take access on township roads shall be located a minimum of ten (10) feet from the property line or as necessary to provide adequate drainage onto the parcel the driveway serves.
 2. Driveways that take access on County/State highways shall conform to ordinances of the County and State, as appropriate.
 3. Driveways must be located a minimum of 300 feet from the intersection of any two or more public roads.
- C. All buildings must be served by an approach that meets the requirements for approaches established in this chapter. (Resolution 59, 8-13-2007)

SECTION 6. FEES AND COSTS

Applicant shall arrange and pay for title research when a determination of possible Pre-1982 Lot of Record status is required. A certified copy of Dakota County records proving the status shall be provided to the Township as part of the application. Where a residential building right transfer is involved, all undeveloped and unverified parcels in the destination quarter-quarter section shall be verified as to status.

In the case of an application to subdivide and/or plat land, the subdivider will pay, in addition to the fees set forth in Ordinance 7, all costs incurred by the Town Board directly relating to the application for the subdivision. These costs shall include, without limiting the generality of the foregoing, the salaries of the Supervisors and Clerk at special meetings called to review or act on the proposed subdivision, fees paid to the Township Attorney and Engineer to review and process the application for the subdivision and the costs of publishing any notice in the official newspaper which may be required in order to act on the application for the subdivision.

Before the final plat is recorded, the Town Clerk shall certify to the subdivider the amount to which the Township is entitled to be reimbursed under the provisions of this Section. This amount shall be paid to the Town Board before the final plat is endorsed by Township officials and before it is recorded in the Office of the Register of Deeds.

SECTION 7. REVIEW PROCESS FOR HOUSING RIGHT TRANSFER APPLICATION

- A. Formal review by the Eureka Township Planning Commission will not commence until a submitted application is complete including any and all required supporting documents. This shall include:
 - 1. A stub abstract commencing with the deed placing the applicant in title to the qualifying property with an available housing right that is the source of the residential building right to be transferred. In the event applicant has not yet acquired the qualifying property then an agreement to acquire the building right together with a stub abstract commencing with the deed placing the party who is transferring the building right in title to the qualifying property.
 - 2. Proof of ownership of a specific parcel that is qualified to receive a residential building right, or certification of commitment to acquire a property eligible to receive a residential building right transfer, and
 - 3. Proof of the Pre-1982 Lot of Record status, if any, of all undeveloped properties in the destination quarter-quarter section where the residential building right transfer is to be placed, and
 - 4. A copy of the Wetland Determination for the destination property from the Dakota County Soil and Water Conservation District.
- A. Proof of ownership shall be based on certified copies of current official records on file with Dakota County.

- B. Proof of commitment to acquire a destination property and/or the housing right to be transferred may be satisfied either by a copy of the involved Purchase Agreement(s) or a properly notarized form(s) approved by the Township certifying that such a Purchase Agreement(s) is in place. Any such Purchase Agreement(s) may be made contingent upon final approval of the Housing Right Transfer by the Town Board but in any case must be executed and filed with Dakota County and evidence of Dakota County recording filed with Eureka Township within the time frames prescribed in this Chapter.
- C. When the Planning Commission completes its review, it makes its recommendation to the Eureka Town Board of Supervisors.
- D. The Town Board reviews the application and Planning Commission recommendation and makes its decision. Approval triggers the start of the time frames prescribed in this Chapter to complete any remaining private transactions, Dakota County recordings, and proof of recordings to Eureka Township required.

SECTION 8. RECORDING OF APPROVED TRANSFER

- A. The landowner(s) shall execute a Residential Building Right Transfer Agreement with the Township, which shall be recorded by the landowner(s) within ninety (90) days of its approval by the Town with the Dakota County Recorder. The Agreement shall be recorded against all properties required to be identified in the Agreement. Written proof of such recording shall be presented by the landowner to the Town Clerk within one hundred and twenty (120) days after the approval of the transfer agreement by the Township.
- B. The Residential Building Right Transfer Agreement shall identify the Pre-1982 Lot of Record or the parcel and quarter-quarter section from which a building right has been transferred, and shall state that any residential building right on that Pre-1982 Lot of Record or parcel and quarter-quarter section no longer exists and has been transferred onto other property. The agreement shall identify by legal description the parcel to which the residential building right has been transferred.
- C. The Residential Building Right Transfer Agreement shall be executed and recorded by the landowner(s), and written proof of such recording presented to the town clerk, before the Town will consider any application for a building permit, or before transfer of any of the lands described in the transfer agreement, whichever occurs first.

SECTION 9. VIOLATIONS AND PENALTY

VIOLATION. Failure to complete any transactions and recordings required after Town Board approval of a Residential Building Right Transfer or a Clustering Agreement and associated Town Board Consent of the Clustering Agreement shall nullify the approval and the residential building right shall revert to the original sending parcel.

SECTION 10. DEFINITIONS. The following words and terms, whenever they occur in this Chapter, are defined as follows:

Cluster –the act of transferring a residential building right.

Residential Building Right – the eligibility to build or place a single family dwelling on a qualifying buildable property as described and under the conditions of this Chapter.

Residential Building Right Transfer – the act of moving a residential building right from one property to another within Eureka Township.

SECTION 11. CONFLICT AND INTERACTION WITH ORDINANCES. Whenever there is a conflict between minimum standards or dimensions specified herein and those contained in other official ordinances, resolutions, Codes or Ordinances of the Town, the most restrictive standards shall apply.

SECTION 12. SEPARABILITY. It is the intention of the Town Board that the several provisions of this Chapter are separable and that if any court of competent jurisdiction shall adjudge any provision of this Chapter or application thereof to be invalid, such judgment shall not affect any other provisions of this Chapter not specifically included in said argument.

Chapter 4: Building Permits, Building Regulations, and Performance Standards

Section 1 - PERFORMANCE STANDARDS AND BUILDING REGULATIONS

A. Intent

These performance standards are designed to prevent and eliminate those conditions that are hazardous and endanger people, private and public property, and the natural environment. The performance standards established in this section shall apply to all future structures and land uses in all zoning districts. The standards shall also apply to existing development where so stated. The Town Board, Planning Commissions, and Building Inspector shall be responsible for enforcing these standards. Before any building permit is approved, the Town Board shall determine whether the proposed use will conform to the performance standards. The petitioner, developer or land owner shall supply data necessary to demonstrate conformance with these standards at the request of the Planning Commission or Town Board. Such data may include environmental information on soils, topography, geology, water courses, wetlands, tree cover, etc.; locations of road right-of-way, boundary lines, equipment and construction processes to be used; hours of operation; and provisions of disposal of all wastes produced by the use. It may occasionally be necessary for a developer to employ specialized consultants to demonstrate that a given use will not exceed the performance standards.

B. Structures And Accessory Uses

1. Foundation and Wall Joist Construction - All foundation and wall joist construction shall be in accordance with the State of Minnesota Building Code in effect at the time the building permit is granted, and as required by the manufacturer's installation instructions.
2. Roof Pitch - All residential structures shall possess pitched roofs which meet the minimum requirements of the State Building Code.
3. Garage - All residences must have a garage with a minimum width of 22 feet, and a minimum length of 22 feet.
4. Width and Length - All residential structures, except earth-sheltered homes, shall possess a minimum width of 24 feet, and a minimum length of 26 feet. The measurement of such dimensions shall not include bay windows, roof overhangs, porches, or eaves under which there is no interior space.

5. Attachment to Ground - All structures, whether temporary or permanent in nature, shall be securely attached to the ground. (Resolution 59, 8-13-2007)

All structures requiring landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.

C. No Basement Homes

No basement, garage, tent, travel trailer, or accessory building (except if specifically permitted by these ordinances of Ordinances in effect at the time of the passage of this Ordinance) shall be at any time used as a dwelling. The basement portion of a finished home may be used for normal eating and sleeping purposes, provided it is properly damp-proofed, has suitable fire protection and exits, and is otherwise approved by the Building Inspector.

D. Minimum Livable Floor Area

All residential structures consisting of one single level shall possess a minimum of 960 sq. ft. of livable floor area, excluding any basement floor area. All multi-level or split-level residential structures shall possess a minimum of 1,248 sq. ft. of livable floor area, excluding any basement floor area.

E. Code Requirements

All buildings constructed hereafter shall meet the requirements of buildings, plumbing, sanitation, well, electrical and heating codes in effect on the date of the permit.

F. Landscaping

No trees, shrubs or hedges shall be planted closer than twenty (20) feet back from street or road right-of-way.

On corner lots, nothing shall be placed or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 1/2) and ten (10) feet above the centerline grades of the intersecting streets, to a distance such that a clear line of vision is possible of the intersecting street from a distance of fifty (50) feet from the intersection of the right-of-way lines. (Resolution 59, 8-13-2007)

G. Parking

Parking spaces accessory to one-family dwellings shall be located on the same lot. Parking in residential areas (off-street and on-street) shall be limited to the use of the residents of those homes. The number of vehicles parked on or in front of a residential lot shall not exceed double the number of persons residing on the premises and having an automobile driver's license. This limitation does not apply to short-term parking (six hours or less), guest parking, or vehicles parked inside an enclosed building. (Ord. 2010-1, 6-14-2010)

H. Soil Erosion and Sedimentation Control

All development shall comply with all local, state and federal regulations as they apply to soil erosion and sedimentation control.

I. Sewage Disposal Standards

1. These standards shall be as provided by all applicable Minnesota State Laws.
2. All waste materials, debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The landowner shall be responsible for keeping such land free of refuse and weeds.

J. Bulk Storage (Liquid)

All bulk storage shall comply with all applicable local, state and federal standards.

Section 2- PERFORMANCE STANDARDS FOR COMMERCIAL AGRICULTURE OPERATIONS

All farms in existence upon the effective date of this Ordinance and all farms which are brought into the Township of Eureka by annexation, shall be a permitted use where the operator can conduct a farming operation. However, all regulations contained within Ordinance 3, Chapter 4, Section 1 and other Township Ordinances in effect, shall apply to all changes of the farming operation which will cause all or part of the area to become more urban in character. Setback and other regulations shall apply to farming operations, just as they do to residential developments. The Town Board may require any farm operation to secure a Conditional Use Permit to expand or intensify said operations in the event of the following:

- A. The agricultural building is within two hundred fifty (250) feet of any dwelling unit not located on the farm, and may be detrimental to living conditions by creating safety hazards or by emitting noise, odor, vibrations or the like. (Ord. 2010-1, 6-14-2010)
- B. The farming operations are so intensive as to constitute industrial-type use consisting of the compounding, processing, and packaging of products for wholesale or retail trade, and further that such operations may tend to become a permanent industrial-type operation that cannot be terminated as can a normal farming operation.

Section 3 - PERFORMANCE STANDARDS FOR COMMERCIAL OPERATIONS

- A. Off-Street Parking. All commercial operations shall provide adequate off-street parking for all employees and customers as determined by the Town Board. (Ord. 2010-1, 6-14-2010)
- B. All commercial operations shall comply with the ordinances contained in Ordinance 3, Chapter 4, Section 1, and with all Township Ordinances applicable to commercial uses and nuisances, specifically, but not limited to, Ordinance 5, Chapter 4. (Resolution 59, 8-13-2007)

Section 4 - STATE BUILDING CODES

- A. The Minnesota State Building Code, as adopted by the Commissioner of Administration pursuant to Minnesota Statutes, Chapter 16B.59 to 16B.75, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Administration, through the Building Codes and Standards Division, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted herein. The Minnesota State Building Code is hereby incorporated in this Ordinance as if fully set out herein.
- B. The application, administration, and enforcement of the Code shall be in accordance with Minnesota State Building Code. The Code shall be enforced within the extraterritorial limits permitted by Minnesota Statutes, 326B.62(1), when so established by this Chapter.
- C. The Code Enforcement Agency of Eureka Township shall be the Building Official.

Section 5 - BUILDING PERMITS**A. Permit**

1. For the purpose of regulating the location, size, and height of buildings on lots and the density of population in the Township of Eureka, and to provide separate districts for the purpose of carrying out the aforesaid ordinances, building permits shall be required for all buildings, whether temporary or permanent in nature. No person or persons, firm, or corporation shall construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure; erect, install, enlarge, alter, repair, remove, convert, or replace any gas, mechanical, electrical, plumbing system, or other equipment, the installation of which is regulated by the Minnesota State Building Code; or cause any such work to be done, before first making application for and obtaining all required permits. (Resolution 59, 8-13-2007)
2. Neither the issuance of a permit nor compliance with the conditions thereof, nor with the provisions of this Chapter, shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property. Nor shall the issuance of any permit hereunder serve to impose any liability on the Township of Eureka or the Town Board or its officers or employees for injury or damage to persons or property. A permit issued pursuant to this Chapter does not relieve the permittee of the responsibility for securing and complying with any other permit which may be required by any other law, ordinance, or Ordinances. (Resolution 59, 8-13-2007)
3. Every permit issued shall become invalid unless the work authorized by the permit is commenced within 180 days after its issuance, or if the work authorized by the permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The Building Official may grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. (Resolution 59, 8-13-2007)
4. The issuance of a building permit shall in no way abrogate, restrict or limit the power of the Town Board to regulate the use of the property for which the building permit is issued by appropriate future zoning or Ordinances.
5. The owner or the owner's heirs, successors or assignees of a single-family dwelling that has been moved, destroyed or suffered damage rendering the dwelling uninhabitable and who desires to replace or

restore the dwelling, must initiate the building permit process or the moving permit process for the replacement or restoration work within 12 months of the date of the event if the following two conditions apply:

- a. there are one or more other undeveloped parcels or portion of such parcels in the same quarter-quarter section that do not have a pre-April 12, 1982, grandfathered housing eligibility, and
- b. the affected owner's parcel is not a pre-April 12, 1982, grandfathered parcel.

Failure to have a complete permit application on file with the Town Clerk within the 12 months or to follow through any phase of the prescribed allowable time line for completion of such work will cause the building eligibility to be returned to the public domain. In this circumstance the building eligibility becomes available to the first eligible owner in the quarter-quarter section to claim it for use on an undeveloped parcel in that quarter-quarter section that does not already have a pre-April 12, 1982, grandfathered eligibility and subject to all other requirements this Chapter. (Ord. 2010-1, 6-14-2010)

B. Application

Applications for building permits shall be made in writing to the Town Clerk on a blank form to be furnished by the Town Clerk. Each application for a permit to erect, convert, alter, wreck, move or extend the outside dimensions of any building, or buildings, or any part thereof, shall be accompanied by: (Resolution 59, 8-13-2007)

1. A plan drawn to scale showing the size of the structure, new or to be remodeled, type of construction, and the estimated cost thereof.
2. Three copies of a Certificate of Survey of said lot or tract of land, made by a registered land surveyor and certified thereto may be requested. Said survey shall state thereon the legal description of the land on which the structure is to be or is now located, and show lot lines and the size of the lot. A site plan is necessary. The site plan must show the legal description, the location and size of the structure which is to be erected or remodeled; the location of road or street, including its width on which the structure does now or is to front; and show the location and size of the well, drainage and sewer systems. If requested, complete and detailed plans showing floor plans (all floors, including basement), and front, rear and side elevation, drawn

to scale, together with plans showing location of the well, drainage and sewer systems. (Ord. 2010-1, 6-14-2010)

C. Public Road Requirement

No application for a permit shall be considered, and no permit shall be granted for the erection of any new structure and/or remodeling of existing structure where the lot or tract of land on which said structure is to be erected or is now located, does not abut on a public road or street which has been approved by the Town Board.

D. Fees

The fees for building permits shall be as set forth in Ordinance 7.

1. All required building permits shall be taken out by the permittee or authorized agent before any part of said construction shall commence. In the event construction shall have been commenced before said permit has been issued, the fees shall be doubled.
2. Every permit issued shall become invalid unless all applicable fees are paid within thirty (30) days of approval by the Town Board. (Resolution 59, 8-13-2007)

Section 6 – HOUSING

Please refer to the Uniform Housing Code, 1994 Edition, prepared by the International Conference of Building Officials.

Section 7 - STANDARDS FOR ACCESSORY USES OR STRUCTURES

- A. Location – No detached accessory building or structure shall be located closer than ten (10) feet to any principal building or to any other accessory building or structure. (Ord. 2010-1, 6-14-2010)
- B. Easements – No accessory building or structure except for utility panels or boxes or moveable and temporary buildings or small (less than 120 square feet) storage sheds shall be erected in any easement area. (Ord. 2010-1, 6-14-2010)
- C. Area – The maximum total area of all accessory buildings shall not total more than 5,000 square feet on 2 to 5.999 acres and not more than 10,000 square feet on 6 to 10.999 acres. There shall be no maximum limitation to total area for agricultural buildings and agricultural buildings shall not be considered in the total sum of accessory buildings on an individual parcel. (Ord. 2010-1, 6-14-2010, Ordinance 2013-03, 6-10-2013)

- D. Maintenance – All detached accessory buildings shall be maintained in a manner that is compatible with the primary uses, and does not present a hazard to public health, safety, and general welfare of the surrounding community. (Ord. 2010-1, 6-14-2010)
- E. Prohibitions
 - 1. No accessory building may be used for human habitation except temporarily as specifically permitted by the Township of Eureka Ordinance 3 Chapter 4.11.B.3. An accessory building or structure shall be limited to one (1) half bathroom facility inclusive of all individual accessory buildings on an individual property. Half bathroom facilities shall mean provision of a sink and toilet. Bathroom facilities shall be limited to a single bathroom with one toilet and one sink, except as required by other applicable rules or statutes. (Ord. 2010-1, 6-14-2010)
 - 2. There can be no Accessory Structure without a Principal Structure existing on the same parcel. (Ord. 2010-1, 6-14-2010)

Section 8 – SEPTIC SYSTEMS

- A. All septic tanks shall be designed to provide adequate volume for settling, for sludge and scum storage. The design shall also provide for access for cleaning.
- B. All septic tanks shall be placed not less than ten (10) feet from the property line of adjoining private property. These tanks shall be not less than fifty (50) feet from any source of domestic water supply. The tank shall be located not less than ten (10) feet from the foundation of any building.
- C. All septic drain fields shall be placed not less than ten (10) feet from the property line of adjoining private property. Drain fields shall be not less than fifty (50) feet from any source of domestic water supply, and not less than one-hundred (100) feet from any shallow source of domestic water supply. The drain field shall be located not less than twenty (20) feet from the foundation of any building. (Resolution 59, 8-13-2007, Ord. 2010-1, 6-14-2010)

Section 9 – SWIMMING POOLS

- A. Permits. A building permit shall be required for all in-ground swimming pools, and for all above-ground swimming pools designed to hold more than 5,000 gallons of water. Permit fees for swimming pools shall be based on valuation. The building permit application shall show:
1. Type and size of pool.
 2. Site plan.
 3. Location of pool.
 4. Location of house, garage, fencing and other features on the lot.
 5. Location of structures on all adjacent lots.
 6. Location of filter unit, pump and wiring (involving type).
 7. Location of back-flush and drainage outlet.
 8. Grading plan, finished elevations and final treatment (decking, landscaping, etc.) around pool.
 9. Location of existing overhead or underground wiring, utility easements, trees and similar fixtures.
- B. SAFETY FENCE. All swimming pools requiring a permit shall be completely enclosed by approved safety fencing.
1. To be approved, "safety fencing" must be a barrier a minimum of 48 inches in height. Walls of an above-ground swimming pool are considered barriers for the purpose of this Chapter, provided that the walls are at least 48 inches in height. The maximum clearance between grade and the bottom of the barrier shall be 2 inches. The maximum vertical clearance at the bottom of the barrier may be increased to 4 inches when the grade is a solid surface such as concrete, or where the barrier is mounted on top of the pool structure. Openings in the barrier shall not allow passage of a 4 inch sphere. For fencing composed of vertical and horizontal members, if the tops of the horizontal members are less than 45 inches apart, the spacing between vertical members shall be no greater than 1 $\frac{3}{4}$ inches.
 2. Access gates, if used, shall be self-closing and have a self-latching device. Access gates shall open outward, away from the pool. Where the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate, the release mechanism shall be located on the pool side of the barrier at least 3 inches below the top of the gate, and the barrier shall have no openings greater than $\frac{1}{2}$ inch within 18 inches of the release mechanism.
 3. Self-contained hot tubs or spas equipped with a locking cover do not need a separate safety fence.

4. A wall of a dwelling may serve as part of the barrier. If a wall of a dwelling is used as part of the barrier, one of the following conditions shall be met:
 - a. The pool shall be equipped with a powered safety cover; or
 - b. Doors with direct access to the pool shall be equipped with an alarm which produces an audible warning when the door and/or screen are opened. The alarm must be capable of being heard throughout the house during normal household activities, and shall automatically reset. The alarm system may have a means of temporarily disabling the alarm, provided that the deactivation lasts no longer than 30 seconds and the switch, touch pad or other device that disables the alarm is located at least 54 inches above the threshold of the door; or
 - c. Doors with direct access to the pool area must have a lockable device located at least 54 inches above the threshold of the door; or
 - d. Upon request, the Town Board may approve an alternative safety measure that it finds to be as effective or more effective than the measures specified in (a), (b) or (c).
5. Where the structure of an above-ground pool is used as a barrier, or the barrier is mounted on top of a pool structure, and the pool is accessed by means of a ladder or steps, the ladder or steps shall be capable of being secured, locked or removed to prevent access; or the ladder or steps shall be surrounded by a barrier that complies with the requirements of this Chapter.
6. Barriers shall be located to prevent any permanent structures, equipment, or similar objects from being used to climb the barriers.

C. PERFORMANCE STANDARDS.

1. A swimming pool shall not be located within ten (10) feet of any side or rear lot lines nor within ten (10) feet of any principal building or accessory structure. For the purposes of determining setbacks for pools, attached and detached decks shall not be considered part of a principal building or accessory structure.
2. The filter unit, pump, heating unit and any other noise-making mechanical equipment shall be located at least twenty (20) feet from

any adjacent or nearby residential structure, and not closer than ten (10) feet to any lot line.

3. All wiring, lighting, installation of heating unit, grading, installation of pipes and all other installations and construction shall require inspection in accordance with respective Minnesota State codes.
4. Pools shall not be located beneath overhead utility lines, nor over underground utility lines of any type.
5. Pools shall not be located within any private or public utility, walkway, drainage or other easement.
6. In the case of in-ground pools, due precautions shall be taken during the construction period to avoid damage, hazards or inconvenience to adjacent or nearby property, and to assure that proper care shall be taken in stockpiling excavated material to avoid erosion, dust or other infringement onto adjacent property.
7. To the extent feasible, back-flush water or water from pool drainage shall be on the owner's property or into approved public drainage ways. Water shall not drain onto adjacent or nearby private land. Owners shall check for any best practices published by the Minnesota Pollution Control Agency before draining.
8. Lighting for the pool shall be directed into or onto the pool, and not onto adjacent property.
9. Water in the pool shall be maintained in a suitable manner to avoid health hazards of any type.
10. The required safety fencing shall be completely installed within three (3) weeks following installation of the pool and prior to the pool being filled, unless the pool installation cannot be completed without first filling the pool, due to the way the pool is designed, in which case the fence must be completed within seven (7) days of filling the pool.
11. Any proposed deviation from these standards shall require a variance in accordance with normal zoning procedures.

- D. APPLICATION. The requirements of this Section apply to pools installed after the effective date of this Chapter. (Ord. 2011-01)

Section 10 – AIRCRAFT HANGARS

- A. A building permit shall be required for all aircraft hangars, whether temporary or permanent. (Ord. 2010-1, 6-14-2010)
- B. Application for a building permit shall be made in writing to the Town Clerk on a blank form to be furnished by the Town Clerk. In addition to the application form, a complete application shall include a detailed site plan showing property or lease lines, setbacks to property or lease lines, and setbacks to other adjacent structures. Applicants shall represent the application for a building permit before the Planning Commission and Town Board at their next regularly scheduled meetings. (Ord. 2010-1, 6-14-2010)
- C. Where aircraft hangars are located on property leased from the Metropolitan Airports Commission (MAC), the building construction guidelines in the current "Lease Policies, Rules, and Regulations of the Metropolitan Airports Commission Reliever Airports" shall apply. Where aircraft hangars are located on property that is not leased from the MAC, the standards and requirements for accessory structures as established in this Chapter shall apply. (Ord. 2010-1, 6-14-2010)

Section 11 – TEMPORARY STRUCTURES

- A. The building official may issue a permit for those temporary structures and temporary uses specified below. The permit shall be limited as to time of service, but shall not be permitted for more than 180 days. The building official may grant extensions in writing for demonstrated cause. (Resolution 59, 8-13-2007)
- B. The following temporary structures or uses are permitted:
 - 1. Any one temporary building or stand exclusively for the sale of agricultural or horticultural products produced on the premises, provided that such building shall be no less than twenty (20) feet from the road right-of-way and further provided that adequate off-street parking shall be available. (Resolution 59, 8-13-2007)
 - 2. Any temporary building for uses incidental to construction work, provided that such building shall be removed upon the completion of the construction work. (Resolution 59, 8-13-2007)
 - 3. A garage may be occupied as a temporary dwelling for a period of not more than six (6) months if construction of a permanent dwelling is actually under way and in active progress during occupancy of the garage. Said garage shall be provided and equipped with garage doors. In the event that any person shall reside in any such temporary garage home for a period of time exceeding that permitted

by the building official, the Town Board shall proceed to have such extended use abated as a nuisance. (Resolution 59, 8-13-2007)

- C. All other temporary uses or structures are prohibited in Eureka Township. (Resolution 59, 8-13-2007)

Section 12– MOVING BUILDINGS WITHIN OR INTO TOWNSHIP

- A. Permit

The moving of any building or structure within the Township of Eureka, or the relocating of any building or structure into the Township of Eureka, is prohibited unless a moving permit shall first be obtained from the Township as provided in this Ordinance. (Resolution 59, 8-13-2007, Ord. 2012-02, 10-9-2012)

A moving permit cannot override the provisions of Ordinance 3, Chapter 4, Section 5(A), Paragraph 5 if that paragraph's conditions apply to the destination parcel. (Resolution 59, 8-13-2007, Ord. 2010-1, 6-14-2010)

- B. Application

The owner of the land upon or onto which any such building or structure is proposed to be moved or relocated shall file with the Town Clerk of the Township of Eureka a written application for permit setting forth the legal description of the real estate, the general description of the building or structure to be located thereon, the purpose for which said building or structure is to be used and the dimensions and estimated value thereof. (Resolution 59, 8-13-2007, Ord. 2012-02, 10-9-2012)

- C. Fees

The application for permit shall be accompanied by an inspection fee as set forth in Ordinance 7, said inspection fee being in addition to any building permit fee otherwise required.

- D. Inspection

Any building or structure proposed to be moved within or into the Township of Eureka must be inspected by the Township's Designated Building Official before a permit is granted, and before the building or structure is moved within or into the Town of Eureka. (Resolution 59, 8-13-2007, Ord. 2012-02, 10-9-2012)

- E. Requirements

Any building or structure moved within or into the Township of Eureka must be placed on a proper foundation, either of which must be approved, and building permits must be obtained as for any alterations and all new construction. (Resolution 59, 8-13-2007, Ord. 2012-02, 10-9-2012)

F. Violation

Any violation of this section shall be a misdemeanor and in the event that any person, firm or corporation moves a building or structure within or into the Township of Eureka in violation of the terms of this section, each day that said structure or building is permitted to remain in the Township of Eureka in violation of this section shall constitute a separate offense. (Resolution 59, 8-13-2007)

Section 13 – TALL NON-AGRICULTURAL STRUCTURES AND ALTERNATIVE ENERGY SYSTEMS

A. Wireless Telecommunication Facilities (Resolution 59, 8-13-2007)

1. Purpose

In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the Town Board finds the following ordinances are necessary to:

- a. Facilitate the provision of wireless telecommunication services to the residents and businesses of the Township of Eureka;
- b. Minimize adverse visual effects of wireless telecommunication towers through careful design and siting standards;
- c. Avoid potential damage to adjacent properties from wireless telecommunication tower failure through structural standards and setback requirements; and
- d. Maximize the use of existing and approved towers, buildings and structures to accommodate new wireless telecommunication antennae to reduce the number of towers needed to serve the community.

2. Intent

This section is intended to regulate wireless telecommunication towers and is not intended to regulate other types of towers such as radio and television antennae, residential satellite dishes or public safety transmitters. (Resolution 59, 8-13-2007)

3. Permitted And Conditionally Permitted Towers

The following towers are permitted in all zoning districts if in compliance with the performance standards set forth in Section d:

a. Towers located in the following locations:

- (i) Church sites, when camouflaged as steeples or bell towers; and
- (ii) Government, school, utility and institutional sites.

b. Wall or roof-mounted towers.

c. All other cell phone towers or wireless communication facilities require a conditional use permit. (Resolution 59, 8-13-2007)

4. Performance Standards

All towers erected within the Township of Eureka must conform to the applicable performance standards contained in this section.

a. Co-Location Requirements

All towers erected, constructed or located within the Township shall comply with the following requirements:

- (i) A proposal for a new tower shall not be approved unless the Town Board finds that the wireless telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower, building or structure due to one or more of the following reasons:

- (a) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

- (b) The planned equipment would cause interference materially impacting the usability of other existing equipment at the tower or building as documented by a licensed professional engineer and the interference cannot be prevented at a reasonable cost.
- (c) Existing or approved towers or buildings cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a licensed professional engineer.
- (d) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

b. Construction and Maintenance of Towers

Tower and Antenna Design Requirements. Proposed or modified towers and antennae shall meet the following design requirements:

- (i) Towers and antennae shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by Federal or State authorities such as the Federal Aviation Administration (FAA).
- (ii) Towers shall be of a monopole design unless the Town Board determines that an alternative design would better blend in to the surrounding environment. Lattice tower designs may be allowed to facilitate co-location.

c. Tower Setbacks

Towers shall conform with each of the following minimum setback requirements:

- (i) Towers shall be set back from any property line a minimum distance equal to fifty (50) feet and shall be setback a distance equal to the height of the tower when adjacent to a right-of-way.

- (ii) A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the Town Board, to allow integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device or similar structure.
- (iii) The minimum distance to a residential structure shall be the height of the tower plus fifty (50) feet.
- (iv) The tower or associated accessory structures shall not encroach upon any public easements.
- (v) The setback shall be measured from a point on the base of the tower located nearest the property line to the actual property line.

d. Height

The height of towers shall be determined by measuring the vertical distance from the tower's point of contact with the ground or rooftop to the highest point of the tower, including all antennae or other attachments. When towers are mounted upon other structures, the combined height of the structure and tower must meet the height restrictions of any other applicable section of the Township Zoning Ordinances.

e. Height Limitations for Towers

- (i) In all zoning districts, the maximum height of any tower, including antennae and other attachments, shall not exceed two hundred (200) feet.
- (ii) Noncompliance: Noncompliance of characteristics of antennae and towers created by application of this Section shall not in any manner limit the legal use of the property, nor in any manner limit the repair, maintenance, or reconstruction of a noncomplying antenna or tower; however, in no instance shall the degree of noncompliance be increased except as otherwise permitted by Township Zoning Ordinance.

f. Tower Lighting

Towers shall not be illuminated by artificial means and shall not display high intensity strobe lights (as defined by the FCC)

unless such lighting is specifically required by the Federal Aviation Administration or other Federal or State authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

g. Signs and Advertising

The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

h. Accessory Utility Buildings

All utility buildings and accessory structures to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

i. Abandoned or Unused Towers or Portions of Towers

Abandoned or unused towers or portions of towers shall be removed as follows:

(i) All abandoned or unused towers and associated facilities shall be removed within twelve months of the cessation of operations at the site unless a time extension is approved by the Zoning Administrator. In the event that a tower is not removed within twelve months of the cessation of operations at a site, the tower and associated facilities may be removed by the Town Board and the costs of removal assessed against the property.

(ii) Unused portions of towers above a manufactured connection shall be removed within six months of the time of antenna relocation. The replacement of portions of a tower previously removed shall require the issuance of a new conditional use permit.

j. Antennae Mounted on Roofs, Walls, and Existing Structures

The placement of wireless telecommunication antennae on roofs, walls, and existing towers may be approved by the Zoning Administrator, provided the antennae meet the requirements of this Section, after submittal of (1) a final site and building plan as specified in the Township Zoning Ordinance, and (2) a report prepared by a professional engineer indicating the existing structure or tower's suitability to accept the antenna and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated. Accessory equipment for wall or roof mounted antennae must be located within the principal building or, if located on the rooftop, must be enclosed.

k. Interference with Public Safety Telecommunications

No new or existing telecommunications service shall interfere with public safety telecommunications. The Town Board may require that all applications for new service be accompanied by an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the Town Board at least ten calendar days in advance of such changes and allow the Town Board to monitor interference levels during the testing process.

l. Lights and Other Attachments

No antenna or tower shall have affixed or attached to it in any way, except during time of repair or installation, any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Agency (FAA) or the Federal Communications Commission (FCC), nor shall any tower have constructed thereon, or attached hereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.

m. Security Fencing

Towers shall be provided with security fencing to prevent unauthorized entry.

5. Application

Applications for approval to construct towers shall include information as required in the Zoning Ordinance. (Resolution 59, 8-13-2007)

B. Energy Windmills

1. Wind Energy Conversion System (WECS)

One (1) WECS shall be considered as a conditional use permit in all zoning districts. All appropriate ordinances within each zoning district must be complied with in addition to regulations outlined below.

- a. Applicants requesting a conditional use permit for a WECS shall furnish such scale drawings and information as the Town Board deems necessary. This information may include, but is not limited to the following: a plot plan of the premises involved showing lot lines, the accurate location of all buildings and structures on the premises and on each adjacent plot and the location of the proposed tower and all guy wires, poles or anchors, and a sketch elevation of the premises accurately depicting the proposed tower and its relationship to structures on adjacent lots.
- b. No more than one (1) WECS per lot shall be permitted.
- c. The permitted maximum height of a WECS shall be determined in one of two ways:
 - (i) A ratio of one to one between the distance from the closest property line to any part of the WECS to the height of the tower.
 - (ii) A maximum of one hundred (100) feet in industrial districts and sixty (60) feet in Agricultural, Rural Residential, Residential Suburban, Urban Expansion, and General Commercial Districts.

The shortest height of the two above mentioned methods shall be used in determining maximum height. Height shall be measured from the surrounding grade to the rotor hub or top of the tower, whichever is higher.

- d. No part of a WECS shall be located within or above any required front, side or rear setback area.
- e. All WECS shall be designed to meet the following minimum standards:

- (i) An automatic braking system device capable of halting operation in high winds (40 m.p.h. or greater) shall be incorporated.
 - (ii) The WECS shall be operated and maintained in a condition which will not cause unreasonable noise emissions levels.
 - (iii) The WECS shall be guarded against unauthorized climbing. The first twelve (12) feet of the tower shall be unclimbable by design or be enclosed by a six (6) foot high, unclimbable fence with a secured access.
 - (iv) The WECS shall be designed and installed to withstand natural lightning strikes.
 - (v) The WECS electrical equipment and connections shall adhere to all state and local government, as well as power company rules, ordinances and standards.
- f. The owner of a WECS which is to be dismantled must accomplish such act within forty-five days or the Town Board is empowered to dismantle such WECS and assess the costs against the property.
- g. WECS that are by nature ornamental, rather than functional, shall be exempt from this Ordinance if total height is less than twenty five (25) feet.
- h. In order to ensure adequate wind access, the Township does encourage the use of private easements and restrictive covenants as a means to protect wind access.

C. Alternative Energy Systems

All normal energy systems shall comply with State codes. To provide for new and innovative approaches to the generation of energy for use by residents, businesses and industry in the Township, exceptions may be made to height regulations, setback distances, lot coverage, accessory uses, and all other applicable standards in all districts for proposed innovative energy systems, associated equipment and structures. All modifications will be made through a conditional use permit process.

1. Accessory Solar Energy Systems (ASES)
 - a. Approvals Required.
 - i. Roof-Mounted and Building-Mounted ASES are allowed as accessory uses and structures.
 - (a) No Township land use permit is required.
 - (b) The owner or contractor shall obtain a building and mechanical permit before installing a Roof-Mounted or Building-Mounted ASES.
 - ii. Ground-Mounted ASES, which are designed to generate ten (10) kilowatts of power or less, are allowed as accessory uses and structures in all districts.
 - iii. Ground-Mounted Accessory Solar Energy Systems whose generating capacity is greater than ten (10) kilowatts, but not more than one hundred (100) kilowatts, provided that the requirements of Chapter 4, Section 13, Clause C (1)(b)(iii) are met, shall be treated as a conditional use which may be approved as an accessory use and structure by the Town Board in the Agricultural District provided the provisions and requirements in Chapter 4 of this Ordinance are fulfilled, including but not limited to the provisions of Chapter 4, Section 14.
 - b. Performance Standards.
 - i. Standard for all ASES.
 - (a) Electric ASES components must have an Underwriters Laboratory (UL) listing.
 - (b) All ASES shall comply with the Minnesota State Building Code and Electric Code.
 - ii. Roof-Mounted and Building-Mounted ASES.
 - (a) Roof-Mounted ASES shall comply with the accessory structure setbacks.

- (b) Roof-Mounted and Building-Mounted ASES shall not extend above the highest portion of the roofline on which the system is mounted.
 - (c) The collector surface and mounting devices for Roof-Mounted ASES shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side or rear yard exposure.
- iii. Ground-Mounted ASES.
- (a) Ground-Mounted ASES shall comply with the accessory use and structure standards, including setback requirements. Ground-Mounted ASES shall not be placed in front yards. Ground-Mounted ASES may not extend into the side yard or rear yard setback when oriented as minimum design tilt (i.e. the solar panel position that is maximum horizontal extent and covers the maximum ground area).
 - (b) A minimum of one (1) Ground-Mounted Solar Panel is permitted in Shoreland Districts, and is not considered an impervious surface.
 - (c) The collector surface of a Ground-Mounted ASES located outside Shoreland Districts is not considered an impervious surface if the system has a natural vegetated ground cover under and between the collectors and surrounding the system foundations or mounting devices.
 - (d) The height of a Ground-Mounted ASES shall not exceed fifteen (15) feet.
 - (e) Ground-Mounted ASES shall be counted as an accessory structure for the purpose of meeting limits on the total square footage of accessory structures in all zoning districts.

- (f) Ground-Mounted ASES shall meet the requirements of the Township's Stormwater Ordinance.
- (g) The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the Solar Panel(s) are within accepted professional standards, given local soil and climate conditions.

Section 14 - CONDITIONAL USE PERMITS

A. Criteria For Granting Conditional Use Permits

In granting a conditional use permit, the Planning Commission and Town Board shall consider the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding lands and water bodies. Among other things, the Planning Commission and Town Board shall make the following findings where applicable:

1. The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
2. The use will be sufficiently compatible with or separated by adequate distance or screening from adjacent agriculturally or residentially zoned or used land so that existing property will not be depreciated in value and there will be no deterrence to development of vacant land. (Resolution 59, 8-13-2007)
3. The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties.
4. The use is reasonably related to the existing land use. (Resolution 59, 8-13-2007)
5. The use is consistent with the purpose of the Zoning Ordinances and the purposes of the zoning district in which the applicant intends to locate the proposed use.
6. The use is not in conflict with the Comprehensive Plan of the township.
7. The use will not cause traffic hazards or congestion.

B. Conditions Of Approval

In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission and Town Board may impose, in addition to these standards and requirements expressly specified by this Chapter, additional conditions which the Planning Commission and Town Board consider necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

1. Increasing the required lot size or yard dimension;
2. Limiting the height, size or location of buildings;
3. Controlling the location and number of vehicle access points;
4. Increasing the street width;
5. Increasing the number of required off-street parking spaces;
6. Limiting the number, size, location or lighting of signs;
7. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property; and
8. Designation of open space.
9. Annual review. (Resolution 59, 8-13-2007)

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

C. Procedure

1. Applications for conditional use permits will not be accepted from anyone who is not an owner of land for which the application is made.
2. The person applying for a conditional use permit shall fill out and submit to the Zoning Administrator a conditional use application form and filing fee.

3. Once the application is deemed complete, the Zoning Administrator shall provide landowners within 1,000 feet of the applicant's property with notification of the application for a conditional use permit via first class mail. (Ord. 2010-1, 6-14-2010)
4. The Zoning Administrator shall refer the application to the Planning Commission for review.
5. The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be as provided by Minnesota Statute 462.3595.
6. The petitioner or a legally authorized representative shall appear before the Planning Commission in order to present evidence concerning the proposed conditional use. (Resolution 59, 8-13-2007)
7. If the Planning Commission recommends granting the conditional use permit, it may recommend conditions it considers necessary to protect the public health, safety and welfare.
8. The Planning Commission shall forward its recommendation to either deny or approve the Conditional Use Permit to the Town Board. The Planning Commission shall make findings of fact and recommend to the Town Board such actions or conditions relating to the request. Such findings shall be entered in and made part of the written record of the Town Board's meeting.
9. The Town Board will take final action on the request. Approval of a conditional use permit shall require passage by a minimum of three (3) members of the Town Board.
10. An amended conditional use permit application shall be administered in a manner similar to that required for a new conditional use permit. The fee shall be as set by separate action of the Town Board. Amended conditional use permits shall include requests for changes in conditions and as otherwise described in this Chapter.
11. No application for a conditional use permit shall be resubmitted for a period of six (6) months from the date of said order of denial.
12. Granted conditional use permits shall become void if applicant does not proceed substantially on the work within six (6) months. To proceed substantially means to make visible improvement to the property. Up to two (2) extensions for not more than six (6) months each may be granted by the Town Board for good cause. (Resolution 59, 8-13-2007)

13. If the land use does not conform to the conditions of the permit, the conditional use permit may be revoked after notice to the applicant of a public hearing for the intended revocation and passage of a resolution by the Town Board to that effect.
14. All Conditional Use Permits that are granted by the Town Board shall be recorded at the office of the Dakota County Recorder by the Township Clerk at the expense of the applicant. (Resolution 59, 8-13-2007)

Section 15– Interim Use Permits (Resolution 59, 8-13-2007(entire Section))

A. Criteria for Granting Interim Use Permits

In granting an interim use permit, the Planning Commission and Town Board shall consider the effect of the proposed interim use upon the health, safety, morals, and general welfare of occupants of surrounding lands and water bodies. Among other things, the Planning Commission and Town Board shall make the following findings where applicable:

1. The interim use is identified as a permitted interim use in the zoning district where the property is located.
2. The interim use will meet or exceed the performance standards set forth in the Zoning Ordinance and other applicable Township ordinances.
3. The interim use complies with the specific standards for the use identified in the ordinances allowing the interim use.
4. The date or event that will terminate the use can be identified with certainty.
5. Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.
6. The applicant agrees to any conditions that the Town Board deems appropriate for permission of the use. (Ord. 2010-1, 6-14-2010)
7. The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
8. The use will be sufficiently compatible with or separated by adequate distance or screening from adjacent agriculturally or residentially

zoned or used land so that existing property will not be depreciated in value and there will be no deterrence to development of vacant land.

9. The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties.
10. The use will not cause traffic hazards or congestion.

B. Conditions of Approval

In permitting an interim use, the Planning Commission and Town Board may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions which the Planning Commission and Town Board consider necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

1. Increasing the required lot size or yard dimension;
2. Limiting the height, size or location of buildings;
3. Controlling the location and number of vehicle access points;
4. Increasing the street width;
5. Increasing the number of required off-street parking spaces;
6. Limiting the number, size, location or lighting of signs;
7. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property; and
8. Designation of open space.
9. Annual review.

C. Procedure

1. Applications for interim use permits will not be accepted from anyone who is not an owner of land for which the application is made.
2. The person applying for an interim use permit shall fill out and submit to the Zoning Administrator an interim use application form and filing fee.

3. Once the application is deemed complete, the Zoning Administrator shall provide landowners within 1,000 feet of the applicant's property with notification of the application for an interim use permit via first class mail. (Ord. 2010-1, 6-14-2010)
4. The Zoning Administrator shall refer the application to the Planning Commission for review.
5. The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be as provided by Minnesota Statute 462.3597.
6. The applicant or a legally authorized representative shall appear before the Planning Commission in order to present evidence concerning the proposed interim use. (Ord. 2010-1, 6-14-2010)
7. If the Planning Commission recommends granting the interim use permit, it may recommend conditions it considers necessary to protect the public health, safety and welfare.
8. The Planning Commission shall forward its recommendation to either deny or approve the interim use permit to the Town Board. The Planning Commission shall make findings of fact and recommend to the Town Board such actions or conditions relating to the request. Such findings shall be entered in and made part of the written record of the Town Board's meeting.
9. The Town Board will take final action on the request. Approval of an interim use permit shall require passage by a minimum of three (3) members of the Town Board.
10. No application for an interim use permit shall be resubmitted for a period of six (6) months from the date of said order of denial.
11. Granted interim use permits shall become void if applicant does not proceed substantially on the work within six (6) months. To proceed substantially means to make visible improvement to the property. Up to two (2) extensions for not more than six (6) months each may be granted by the Town Board for good cause.
12. If the land use does not conform to the conditions of the permit, the interim use permit may be revoked after notice to the permit holder of a public hearing for the intended revocation and passage of a resolution by the Town Board to that effect. (Ord. 2010-1, 6-14-2010)

13. All interim use permits that are granted by the Town Board must be recorded at the office of the Dakota County Recorder at the expense of the applicant.

D. Termination. (Alignment)

An interim use permit shall terminate on the occurrence of any of the following events, whichever first occurs:

1. The date of termination or the event of termination specified in the permit or specified in the Chapter that allows the interim use; or
2. Upon violation of a condition under which the permit was issued.

Section 16– VARIANCES TO ZONING ORDINANCES

A. Criteria for Granting Variances

The following criteria shall be used when considering the issuance of a variance:

1. The proposed use is not prohibited in the zoning district in which the subject property is located.
2. The variance must be in harmony with the general purpose and intent of this Ordinance.
3. The terms of the variance must be consistent with the comprehensive plan.
4. The landowner must show that the variance is necessary to alleviate practical difficulties resulting from strict application of the Ordinance. (Ordinance 2011-04, 8-15-2011)

“Practical difficulties” as used in connection with the granting of a variance means: (Resolution 59, 8-13-2007), (Ordinance 2011-04, 8-15-2011)

- a. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance; (Ordinance 2011-04, 8-15-2011)
- b. The plight of the landowner is due to circumstances unique to the property, not created by the landowner or a previous landowner;

- c. The variance, if granted, will not alter the essential character of the locality.

If the variance request meets all of the conditions cited above, the variance may be granted. Economic considerations alone shall not constitute practical difficulties. (Ordinance 2011-04, 8-15-2011)

B. Procedure

1. The person applying for a variance shall fill out and submit to the Zoning Administrator a variance application which shall include a statement of the difficulties claimed, along with the filing fee and escrow. (Resolution 59, 8-13-2007), (Ordinance 2011-04, 8-15-2011)
2. The Zoning Administrator shall provide landowners within one thousand (1,000) feet of the applicant's property with notification of the application for a variance via first class mail.
3. The Zoning Administrator shall refer the application along with all related information to the Planning Commission for review and report in accordance with Minnesota Statutes, § 462.354, subd. 2. (Resolution 59, 8-13-2007), (Ordinance 2011-04, 8-15-2011)
4. The applicant or a legally authorized representative may appear before the Planning Commission in order to explain the proposed variance. (Resolution 59, 8-13-2007), (Ordinance 2011-04, 8-15-2011)
5. The Planning Commission, in reporting on the proposed variance, may recommend the imposing of conditions on the granting of variances to ensure consistency with the Town's Comprehensive Plan. Proposed conditions must be directly related to and must bear a rough proportionality to the impact created by the variance. (Resolution 59, 8-13-2007), (Ordinance 2011-04, 8-15-2011)
6. The Planning Commission may recommend to the Board of Adjustments and Appeals such actions or conditions relating to the request. (Resolution 59, 8-13-2007), (Ordinance 2011-04, 8-15-2011)

7. Following the review and report of the Planning Commission, or thirty-five days after receiving the request if the Planning Commission has not issued a report, the Town Board, acting as the Board of Adjustments and Appeals, shall place the request on the agenda for a public hearing at its next regular meeting. At least ten days prior to the hearing, notice of the time, place and purpose of the public hearing shall be posted at the Town Hall and mailed to each owner of property situated wholly or partly within 1,000 feet of the boundaries of the property proposed to receive a variance. Failure to give mailed notice, or defects in the notice shall not invalidate the proceedings, provided a *bona fide* attempt to comply with this requirement has been made. (Resolution 59, 8-13-2007), (Ordinance 2011-04, 8-15-2011)

8. The Town Board acting as the Board of Adjustments and Appeals shall conduct a hearing on the variance request. The Board shall permit the applicant to present evidence in documentary or testimonial form to establish eligibility for the requested variance. If the Planning Commission has considered the variance request, the Board shall admit the Planning Commission's report into the record, either as a document or through testimony of a representative chosen by the Planning Commission. The Board shall allow time for citizens to testify about the proposed variance, but may impose a reasonable time limit upon the testimony and may require speakers to sign up in advance of the hearing. Following Planning Commission and public testimony, the Board shall afford the applicant an opportunity to offer matters in rebuttal or reply to any issue raised during the hearing. The Board shall provide for a written record of its proceedings in the form of minutes, written findings and final orders upon requests before it. The minutes kept by the Board need not be verbatim; an applicant seeking a verbatim record shall be permitted to make a recording of the proceedings or have a transcriptionist present at the hearing, at the applicant's expense. (Resolution 59, 8-13-2007), (Ordinance 2011-04, 8-15-2011)

9. After closing the hearing, the Board of Adjustments and Appeals shall deliberate and reach a decision on the variance request. The Board's final decision shall be issued in a written final order on the request. Approval of variances or appeals shall require passage by a minimum of three (3) members of the Board of Adjustments and Appeals. The Board may impose conditions in the granting of variances, provided such conditions are directly related to and in rough proportionality to the impact created by

the variance. The Zoning Administrator or Town Clerk shall notify the applicant of the Board of Adjustments and Appeals' action. (Resolution 59, 8-13-2007), (Ordinance 2011-04, 8-15-2011)

10. The decisions of the Board of Adjustments and Appeals shall be subject to judicial review. (Resolution 59, 8-13-2007), (Ordinance 2011-04, 8-15-2011)
11. No resubmission of a variance application will be allowed for six (6) months without new evidence related to the variance.
12. Granted variances become void if the applicant does not proceed substantially on the work within six (6) months. To proceed substantially means to make visible improvement to the property. Up to two (2) extensions of not more than six (6) months each may be granted by the Board of Adjustments and Appeals for good cause. (Resolution 59, 8-13-2007)
13. Applications for variances will not be accepted from anyone who is not an owner of land for which the application is made.
14. All variances that are granted by the Board of Adjustments and Appeals shall be recorded at the office of the Dakota County Recorder. (Resolution 59, 8-13-2007)

Chapter 5: Commercial Agriculture

Section 1 - RIGHT TO FARM

- A. Any person engaged in commercial agriculture within the Township of Eureka shall be permitted to conduct the activities thereof at any time during the day or night, including Saturdays, Sundays and holidays, and regardless of the noise, odors, dust, or other adverse influences created thereby.
- B. The conducting of commercial agriculture shall include the operation of all machinery, equipment and implements which are reasonably related thereto.
- C. Any person engaged in commercial agriculture shall have the right, within the confines of applicable State laws, to traverse town roads with their machinery, equipment or other implements at any time.

Section 2 – FEEDLOTS

- A. Intent and Purpose

The production of farm animals and other agricultural products is an important part of the environment and economy of Dakota County and the Township of Eureka. Livestock, poultry, dairy products, and other agricultural commodities are produced in the Township of Eureka. The continued viability of the agricultural community and production of these products is essential to the economic well-being of the Township of Eureka and its residents.

It is the intent of this Section to allow for the continued production of agricultural commodities and to maintain a healthy agricultural community while ensuring that animal feedlots and animal wastes are properly managed to protect the health of the public and maintain compatibility of land uses in the Township of Eureka.

- B. Minimum Setbacks

The following setbacks shall apply to all animal feedlots and manure storage facilities:

1. Residence not owned by feedlot owner, family or employee:

<u>Animal Units</u>	<u>Minimum Distance</u>
0-50	250 feet
51-150	500 feet
151-750	1,000 feet
751 or more	¼ mile

2. Public Parks ¼ mile

C. Measurements

The separation distances established in this section shall be measured from the perimeter of the animal feedlot or animal waste storage facility to the nearest referenced boundary or the exterior wall of the principal structure containing the referenced use, whichever applies. In the event a use is not contained within a structure, an imaginary perimeter boundary shall be drawn around the referenced use, and measurements shall be taken from that perimeter boundary.

D. Storage, transportation and utilization of Animal Manure

Shall be governed under the rules and ordinances of MN Regulations Chapter 7020 or as may be recodified.

E. Storage and Disposal of Manure and Waste Materials

1. Lagoons. In an effort to control the effects of odors, control flies, protect property values, and promote public safety, open lagoons for the storage of animal waste from feedlots are prohibited in the Township of Eureka.
2. Manure Spreading. To reduce the impact of odors, liquid manure must be incorporated into the soil as soon as possible. Further, manure spread on the surface shall be incorporated within three days except in an emergency as determined by the Town Board.
3. Waste. Any use that results in the storage or disposal of materials or animal waste that results in discharge across neighboring property or into the subsoil in such concentration as to endanger the public or private health, safety, comfort of the public or cause injury or damage to any persons, property, business or endeavors is prohibited.
4. Conditional Use Permits. Unless otherwise prohibited by state or federal law, any person desiring to conduct an activity, business or project in the Township of Eureka that must file an application with

and secure the approval from the Minnesota Pollution Control Agency or any federal agency such as the Environmental Protection Agency, must also file an application for a conditional use permit as provided in Ordinance 3, Chapter 4, Section 13, and secure the approval for such activity, business or project from the Town Board. The Town Board will address land use issues such as controlling potential odor, noise and flies, protecting property values, assuring public health and safety, and protecting Township roads.

F. Other Ordinances

Compliance with all other applicable local, state and federal standards shall be required, including State feedlot ordinances (Chapter 7020 or as may be recodified) and Shoreland Development (MN Statutes 103F.201).

Chapter 6: Airstrip Policy

- A. No personal use airstrip shall be operated or maintained within the Township of Eureka, unless the operator thereof shall first have applied for and obtained an interim use permit and paid said permit fee as set forth in Ordinance 7. (Ord, 2010-1, 6-14-2010)

- B. No airstrip, other than one in operation at the time of the passage of this Ordinance, shall be established within one-thousand (1,000) feet of any dwelling unit, other than the dwelling unit occupied by the operator of the airstrip, unless both the owner and lessee of said adjoining dwelling unit consent in advance in writing to the establishment of said airstrip. (Ord, 2010-1, 6-14-2010)

- C. All applicable state and federal standards shall be adhered to.

Chapter 7: Domestic and Non-Domestic Animals

The purpose of this Chapter is to protect the health, safety and welfare of the residents and citizens of Eureka Township, to protect confined domestic and non-domestic animals, and to protect the property rights of owners and non-owners of domestic and non-domestic animals. (Ordinance, 2010-1, 6-14-2010)

Section 1 - KEEPING OF DOGS

A. Running at Large Prohibited

At no time shall any dog be permitted to run at large off the dog owner's property within the limits of the Township of Eureka. (Resolution 59, 8-13-2007)

B. Impounding

The pound master and every police officer shall impound any dog found running at large and shall give notice of the impounding to the owner of such dog, if known.

C. Penalty

Any person allowing a dog under his control to run at large shall be responsible for any costs incurred in kennel fees, impounding, transporting, euthanizing, adoption, and/or cremation of said animal.

Section 2 – PRIVATE KENNELS

A. Private Dog Kennel Operator's License Required (Ord. 2011-02)

1. No person shall keep six (6) or more dogs on a lot within the Township unless a private kennel is provided for the dogs. No private dog kennel as defined in Ordinance 1, Chapter 4, housing six or more dogs, shall be operated or maintained within the Township of Eureka, unless the operator thereof shall first have applied for and obtained a Private Dog Kennel Operator's License.

2. Application for a Private Dog Kennel Operator's License shall be on a form prescribed by the Township and shall include the name and address of the owner and the operator of the kennel; the address where the kennel is to be located; a site plan of the property on which the kennel is to be located that includes the dimensions and location of the kennel and distances to all existing structures on the property and dwelling units on nearby properties; a photograph, schematic drawing or

description of the kennel; and the number of dogs proposed to be kept. The applicant shall appear before both the Planning Commission and the Town Board at their next regularly scheduled monthly meetings to represent the license application.

3. Licenses shall expire on December 31 of each year. Application for renewal of a license shall be made to the Town Clerk and shall be accompanied by the annual renewal fee specified in Ordinance 7. The Town Board may require a pre-renewal inspection. If such an inspection is ordered, the kennel shall be inspected by both a Town Board and Planning Commission member before the license renewal shall be considered by the Town Board. The fee for licenses granted after commencement of the permit year shall be prorated on a quarterly basis.
 4. No private kennel, other than one in operation at the time of the passage of this chapter, shall be established within five hundred (500) feet of any dwelling unit, other than the dwelling unit occupied by the operator of the kennel, unless both the owner and lessee of said adjoining dwelling unit consent in advance in writing to the establishment of said kennel. Said written consent shall be provided at the time of application. (Resolution 59, 8-13-2007, Ord. 2010-1, 6-14-2010, Ord. 2011-01)
- B. Maintenance Requirements. The following requirements apply to any private dog kennel licensed hereunder:
1. The kennel shall be constructed of material appropriate for the animal being confined and sufficient to ensure the secure confinement of said animal.
 2. The kennel shall be maintained in good repair.
 3. The kennel shall be built to conform with all setback requirements for accessory buildings established in this Chapter.
 4. The kennel shall be maintained and operated in a neat and sanitary manner. All refuse, garbage and animal waste shall be placed in a waste receptacle and removed by a licensed waste hauler as often as necessary to prevent contamination, reduce disease hazards, and keep the surrounding area free from obnoxious odors.
 5. The kennel shall provide adequate space for the number of animals using the kennel. If, following the issue of a license, a person intends to add more animals to a kennel, a new application must be submitted showing that the facilities are adequate for the added animals.

6. Dogs must at all times be housed or restrained in a manner which shall assure that the animals will not create a public nuisance. A public nuisance shall include but not be limited to:
 - a. keeping or harboring a dog that habitually barks, howls, whines or makes other discernable animal noises. Habitual barking, howling, whining, or other discernible animal noises shall be defined as barking, howling, whining, or other discernible animal noises for repeated intervals of at least ten minutes with less than one minute of interruption. Such animal noises must also be audible off of the owner's premises.
 - b. emission of offensive odors that unduly impairs the enjoyment of residents of surrounding properties;
 - c. presenting a danger to human life or property;
 - d. presenting a health hazard to human beings.
7. Dogs confined in the kennel shall be provided with adequate food and water to maintain all animals in good health.
8. Dogs confined in a kennel shall be inoculated against rabies. Any animal that has been bitten by a rabid animal, a rabies suspect, or is believed to have been exposed to rabies shall be subject to Minnesota Board of Animal Health rules governing impounding, quarantine, vaccination, and euthanasia.

C. Violation

Any violation of this section shall be a misdemeanor.

- D. Revocation of license. The Town Board may revoke any private kennel license if the person holding such license, or any person subject to the direction or control of the person holding such license, refuses or fails to comply with the provisions of this chapter, or any other applicable federal, state or local laws regarding the keeping of dogs, provided the following procedure is followed:

1. The Planning Commission shall hold a public hearing concerning said kennel license revocation, at which time the license holder and other interested parties may appear and be heard. The Planning Commission shall make a finding of facts and recommendation to the Town Board.

2. Notice of said hearing shall be mailed to the license holder no later than ten (10) days before the date of said hearing and shall be sent by certified mail.
3. Upon receiving the report and recommendation of the Planning Commission, the Town Board may at its discretion revoke the Private Dog Kennel Operator's License. Revocation shall require passage by a minimum of three (3) members of the Town Board.
4. Any person whose Private Dog Kennel Operator's License is revoked shall, within thirty (30) days, physically remove or dismantle the kennel. No part of the kennel license fee shall be refunded in such case. (Ord. 2011-02)

Section 3 - EXOTIC ANIMALS

A. Purpose and Intent

It is the intent of the Town Board of the Township of Eureka to protect the public against the health and safety risks that exotic animals pose to the community and to protect the welfare of individual animals that are held in private possession. By their very nature, exotic animals are wild and potentially dangerous and, as such, do not adjust well to a captive environment.

B. Keeping of Exotic Animals Prohibited

1. It shall be unlawful for any person to own, possess, keep, harbor, bring, or have in one's possession an exotic animal within Township limits.
2. It shall be unlawful for the owner, possessor, or any other person in control of a lot, tract, or parcel of land within the Township or any residence or business premises situated thereon to knowingly permit any other person to be in possession of an exotic animal or exotic animals upon the property, residence or premises.

C. Exceptions

The following shall be exempt from these ordinances under the conditions noted:

1. Animal control officers
2. Licensed veterinary hospitals or clinics

3. Any wildlife rehabilitator licensed by the State who temporarily keeps exotic animals within the Township when the purpose is to return the animals to the wild.
4. Any person who owned, possessed, kept or harbored exotic animal(s) on or before the effective date of this Chapter, provided that all federal, state, and local licensing and/or approval requirements are met. Any person who falls within this paragraph shall be permitted to hold, keep, harbor or maintain the number of exotic animals that person was legally permitted to hold, keep, harbor or maintain as of the date of adoption of this Chapter but shall not be permitted to increase the number of exotic animals held, kept, harbored or maintained within the Township. (Resolution 59, 8-13-2007)

D. Violations And Penalties

Any person who violates any provision of this Chapter shall be deemed guilty of a misdemeanor and shall be punishable according to State law. Each day that a violation continues shall constitute a separate offense.

Section 4 – PERFORMANCE STANDARDS

The following performance standards shall apply to the keeping of animals within the Township:

- A. One animal unit shall be allowed for the first two contiguous contained acres, and one additional animal unit for each additional contiguous acre.
- B. No more than five (5) animal units may be kept at any time. (Ord. 2012-02, 10-9-2012)
- C. Subsections A and B shall only apply to parcels of land containing less than forty (40) contiguous acres.
- D. Animals may not be confined in pen or building within one hundred seventy-five (175) feet of any residential dwelling not owned or leased by the owner of the animals. A site plan shall be filed with the Town Clerk showing the location of all pens or buildings used to confine animals.
- E. Minnesota Rules regarding feedlots shall apply.

Chapter 8: Signs on Private Property

The purpose of this Chapter is to protect, ensure, maintain and regain the natural and scenic beauty and attractiveness of the roadside throughout Dakota County. By the construction of public roads, the public has created views to which the public retains a right-of-view, and it is the intent of these standards to prevent the taking of that right. Signs are recognized as accessory uses and are permitted in all districts, subject to the regulations of this Chapter. (Resolution 59, 8-13-2007)

Section 1 - PERMIT REQUIRED

Except as otherwise provided in this Chapter, no sign shall be erected, constructed, altered, rebuilt, or relocated, until a permit for the same has been issued by the Town Board. An application shall be submitted in such form as may be prescribed, and shall include such information as may be required for complete understanding of the proposed work.

Section 2 - EXEMPT SIGNS

Sign permits shall not be required for the following:

1. Name and Address – Up to two signs indicating address, number and/or name of occupants of the premises, that do not exceed ten (10) square feet in area per side, and do not include any commercial advertising or other identification.
2. Decals – Decals affixed to windows or door glass panels, such as those indicating membership in a business group or identifying credit cards accepted at the establishment.
3. Flags, Emblems and Insignia of Government Agencies, Religious, Charitable, Public or Non-Profit Organizations – These types of signs are exempt from permit requirements but are subject to the following requirements:
 - A. No single flag that is flown shall exceed forty (40) square feet in area.
 - B. If the total area of flags exceeds seventy-two (72) square feet, the excess area shall be included in the on-premises, free-standing sign area calculations for the parcel.
 - C. Flagpoles shall not exceed forty (40) feet in height.
 - D. Wall-mounted flags, emblems, insignias or logos shall be limited to one per parcel and shall not exceed forty (40) square feet in area.

4. Handicapped Parking Space – Signs not exceeding two (2) square feet in areas reserving parking for handicapped individuals.
5. Private Drive Signs – On-premises private drive signs are limited to one per driveway entrance, not exceeding two (2) square feet in area, with language limited to the words “private drive” and the addresses of any residences using the private drive.
6. Public Signs – Signs erected by government agencies or utilities, including traffic, utility, safety, railroad crossing and identification signs for public facilities and any signs erected by the Township under direction of the Board of Supervisors.
7. Security and Warning Signs – On-premises signs regulating the use of the premises, such as “no trespassing”, “no hunting”, and “no soliciting” signs that do not exceed one (1) sign two (2) square feet in area in residential areas and one (1) sign five (5) square feet in area in commercial and industrial areas. These limitations shall not apply to the posting of conventional “no trespassing” signs in accordance with state law. (Ord, 2010-1, 6-14-2010)
8. Temporary Real Estate Signs – Display of these signs shall be limited to one (1) per property and six (6) square feet in area in residential zones and thirty two (32) square feet in all other zones. These signs shall be removed within thirty (30) days of settlement or lease of the property.
9. Garage or Yard Sale Signs – Signs advertising garage sales or yard sales are permitted, provided that no sign shall exceed four (4) square feet in area and is not erected more than four (4) days prior to the event. One (1) yard sale sign shall be allowed on premises. All signs shall be removed one (1) day after the close of the garage or yard sale.

Section 3 - SIGN REGULATIONS

A. Purpose.

The ordinances established in this Section are designed to protect property values, create a more attractive business climate, enhance and protect the physical appearance of the community, prevent and reduce potential traffic hazards caused by distracting and obstructing signs and to remove safety hazards to pedestrians that may be caused by signs projecting over public right-of-way. (Resolution 59, 8-13-2007)

B. Setbacks.

Signs shall be set back a minimum of fifteen (15) feet from the road right-of-way. (Resolution 59, 8-13-2007)

C. Attachment to ground.

All signs shall be securely attached to the ground. (Resolution 59, 8-13-2007)

Section 4 - PUBLIC RIGHT-OF-WAY

Only official identification or directional control signs shall be allowed within the public right-of-way. (Resolution 59, 8-13-2007)

Section 5 – ON-SITE ADVERTISING SIGNS

- A. No advertising sign shall be erected, constructed, altered, rebuilt, or relocated, until a permit for the same has been issued by the Town Board.
- B. All advertising signs larger than fifty (50) square feet in size shall require a Conditional Use Permit. (Resolution 59, 8-13-2007)
- C. Total square footage of all advertising signs on a single lot shall not exceed two hundred (200) square feet. (Resolution 59, 8-13-2007)

Section 6 – OFF-SITE ADVERTISING SIGNS

Off-site advertising signs are permitted in all districts subject to the conditions stated in Section 5. (Resolution 59, 8-13-2007)

Section 7 - CHANGE IN ADVERTISING MESSAGE

The change in advertising message, maintenance, repair, or the use of extension, cutouts or embellishments upon an existing advertising structure shall not be considered an enlargement, extension structure, or structural alteration provided that the advertising structure is not caused to exceed any size limitation by this Chapter.

Section 8 – POORLY MAINTAINED SIGNS

Unpainted signs, broken signs and signs on vacated buildings shall be removed from the premises on order of the Town Board.

Section 9 - SYMBOLIC SIGNS

Symbolic signs such as a barber pole that are traditional in nature and size shall be permitted. Small identifying signs under canopies or on retractable awnings shall also be permitted.

Section 10 - ANNOUNCEMENT SIGNS

Signs for the following purposes not exceeding ten (10) square feet in area and placed back twenty (20) feet from the front lot line shall be permitted in all districts:

- A. A sign advertising only the sale, rental or lease of the building or premises on which it is maintained.
- B. An announcement sign or bulletin board for the use of a public, charitable, or religious institution occupying the premises.
- C. An advertising sign in connection with a lawfully maintained non-conforming use.
- D. Political signs.

Section 11 - LIGHTING

Signs may be illuminated by fixed light or lights as a conditional use. (Resolution 59, 8-13-2007, Ord, 2010-1, 6-14-2010)

In all districts, any lighting used to illuminate a lot or structure (including signs) thereon shall be arranged so as to deflect light away from adjacent lots and streets. The source of light shall be hooded or shielded so as to prevent beams or rays of light from being directed on any portion of adjoining properties or streets.

Section 12 - NON –CONFORMING SIGNS

Signs erected prior to the date of enactment of this Chapter, which do not conform to the sign regulations contained herein, shall not be expanded, modified or changed in any way except in conformity with these sign regulations. Non-conforming signs must be removed or modified to conform to this Chapter within three (3) years of adoption of this Chapter.

Chapter 9: Fences

The purpose of this Chapter is to establish standards for the installation of fencing and to protect the general health, safety, and welfare of the residents and citizens of Eureka Township by regulating the construction and location of fences.

Section 1 – FENCES ARE PERMITTED

Fences shall be permitted and shall be constructed in compliance with the provisions of this Chapter.

Section 2 – APPROVAL REQUIRED

No person or business entity shall construct or erect or cause to be constructed or erected within Eureka Township any fence without first obtaining a fence building permit from the Building Official.

Section 3 – LOCATION: BOUNDARY LINE FENCES

- A. Location. All boundary line fences, including footings, shall be located entirely upon the private property of the person, or business entity constructing or causing the construction of such fence, unless the owner of the adjoining property agrees, in writing, that such fence may be erected on the division line of the prospective properties.
- B. Boundary Lines. The applicant proposing to construct a fence is responsible for verifying the location of the property lines of the property upon which the fence is to be constructed. If the survey monuments monumenting the boundaries of the property can be located the applicant shall have the right to rely on said monuments. If the monuments locating the boundary lines of the property cannot be located, the Building Official has the authority to, and shall require, the applicant to submit a survey prepared by a registered land surveyor locating the boundaries of the property. A survey will not be required if the owner of the property upon which the fence is to be constructed and the property owner(s) of the adjoining properties enter into a written agreement regarding location of the fence to be built. Said agreement shall be recorded with the Dakota County Recorder, and proof of recording shall be provided to the Town Clerk, before the building permit is approved.
- C. Traffic. On corner lots no fence shall be permitted which blocks road way intersection sight lines.

Section 4 – CONSTRUCTION

- A. **Materials and Method of Construction.** Fences shall be constructed in a substantial, workman like manner and of material reasonably suited for the purpose for which the fence is proposed to be used. Fencing material may consist of dimensional, solid, sawn, decay resistant lumber, chain link fencing material with corrosion protection or other material as permitted by the Town Board. The finished side of the fence shall face abutting properties and/or the street rights-of-way. Fences constructed for agricultural purposes may consist of barb wire. Electric fences shall be permitted for agricultural purposes. The party who constructed the fence shall, to the extent practicable, maintain said fence in a reasonable and sound condition. This shall include the cutting of grass and any other foliage which grows next to the fence, to the extent said grass and foliage are within the boundaries of the lot or tract of land enclosed by said fence.
- B. **Fence Height (Residential).** Fences constructed for residential purposes shall not exceed a maximum height of six (6) feet. The Town shall have the right to limit the height of fences abutting a public right-of-way if in the Town's opinion the fence may interfere with traffic visibility.
- C. **Security Fences.** Fences constructed for security purposes may include barb wire security arms consisting of no more than three (3) strands of barbed wire. The minimum height of the security arm shall be six (6) feet above the surface and should be angled in a manner which does not endanger the public and does not overhang a neighboring property. Any portion of a security fence which abuts a residential property shall not be allowed to be topped with barb wire.

Section 5 – EXEMPTION

Any fence whose use is part of an agricultural operation shall be exempt from the terms of this Chapter.

Section 6 – OTHER TERMS

- A. **Swimming Pool Safety Fences.** Fences constructed to enclose a swimming pool shall be bound by the provisions of Section 9, Chapter 4, Ordinance 3, to the extent that the provisions of this Chapter conflict with the provisions of said Section 9, the provisions of Section 9 shall supersede and override the provisions of this Chapter.
- B. **Exceptions.** The following fences shall not require a building permit, except as noted, however they will be subject to all other provisions of this Chapter:
 - 1. Any fence less than three (3) feet in height. However, said fence shall still be bound by the provisions of Paragraphs (A) and (B) of Section

3 of this Chapter, and the provisions of Paragraph (A) of Section 4 of this Chapter;

- 2. Maintenance, upkeep and/or repair of fences;
- 3. Any underground electric pet fencing; and
- 4. Any temporary fencing installed to control snow. Fences installed at construction sites for safety purposes. Silt fencing installed to control soil erosion.

ORDINANCE 4: PUBLIC SAFETY

CHAPTER 1: EMERGENCY SERVICES111

CHAPTER 2: ROADS112

CHAPTER 3: UTILITY LINE INSTALLATIONS121

CHAPTER 4: FIREARMS.....146

CHAPTER 5: SUBSURFACE SEWAGE TREATMENT SYSTEMS (SSTS).....148

ORDINANCE 4: PUBLIC SAFETY

Chapter 1: Emergency Services

Section 1 - FIRE SERVICES

The Town Board shall have the authority and the responsibility to determine how fire services to the Township of Eureka shall be provided. The Town Board may consider fire department joint power agreements, contract services or other legal means that the Town Board may find are in the public interest.

Section 2 - POLICE SERVICES

The Town Board shall have the authority and the responsibility to determine how police services to the Township of Eureka shall be provided. The Town Board may consider police department joint power agreements, contract services or other legal means that the board may find are in the public interest.

Chapter 2: Roads

Section 1 - PURPOSE

The primary objectives of this Chapter are to protect public safety, reduce interferences with public travel, protect the public's interest in its right-of-way, and to provide for the efficient and uniform administration of the Township's road right-of-way. The Town Board finds that the regulations, requirements, and restrictions, as set forth in this Chapter, are in the best interests of the health, safety, and welfare of the Township's citizens.

Section 2 - AUTHORITY

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

Section 3 - DEFINING PUBLIC RIGHT-OF-WAY

A. Road Specifications

In any division of land in the Township of Eureka in which it is necessary to construct a road to provide access to an existing public road, such road shall meet the following specifications:

1. There shall be provided a road right-of-way at least sixty-six (66) feet in width.
2. The driving surface of the road as constructed shall be at least twenty-four (24) feet in width.
3. A seven-ton gravel base which shall require four inches of Class V gravel and six inches of Class III gravel. The requirements for sand and gravel may be reduced in thickness in the event that sub-soil conditions are well-drained. Any reduction in thickness must be in accordance with inspection and the recommendations of the Township Engineer or Town Board. In the event that sub-soil conditions are poor (e.g., peat, muck, etc.), all substandard sub-soil must be removed and clean compacted fill used to bring the road up to grade before the gravel bases are applied.

B. Public Dedication

No road shall be dedicated to the public and accepted by the Township unless it meets the specifications in Section 3, A-ROAD SPECIFICATIONS

above, and in addition has applied to it a two inch blacktop mat (M.H.D. 2341 - "hot mix") and four foot wide gravel shoulders.

C. Traffic Control

The traffic generated by any use shall be channelized and controlled in a manner that will avoid: (a) congestion on the public streets; (b) traffic hazards; and (c) excessive traffic through residential areas, particularly truck traffic.

Section 4 - PARKING ORDINANCES

A. Streets with a Curb

Every vehicle parked upon any street with a curb shall be parked parallel to the curb and with the right-hand wheel of the vehicle within twelve (12) inches of the curb unless otherwise posted.

B. Streets with no Curbs

On other streets a vehicle shall be parked to the right of the main traveled portion of the road and parallel to it unless otherwise posted. Parking shall be in a manner so that it does not interfere with the free flow of traffic.

C. Disabled Vehicle Exception

This subsection shall not apply to any vehicle disabled upon any street. Every police officer of the Township shall be authorized to require the person in charge of the disabled vehicle to move it to a place of safety. Upon neglect or failure to move the vehicle or in the case of any motor vehicle being left alone or abandoned in any such position, the officer shall be authorized to provide for the removal of the vehicle to the nearest convenient garage or other place of safe keeping. The removal and storage charge shall be paid by the owner of the vehicle.

D. House Trailer Parking

No person shall, for camping purposes, leave or park a house trailer on any street or in the street right-of-way.

E. No Parking Spaces

At any time it shall be unlawful to permit any vehicle to stand at any place where official signs prohibit parking, except when necessary in the case of an emergency or in compliance with the directions of law enforcement officer.

F. Parking of Commercial Vehicles and Other Vehicles

No person shall park any vehicle or equipment, whether licensed or unlicensed, upon any public street, highway or alley in the township for more than forty-eight (48) consecutive hours. This provision shall not be evaded or nullified by an inconsequential moving of the vehicle or equipment. Inconsequential moving includes movement of the vehicle within the same block for the purposes of defeating the provision.

Section 5 - Boat Landings

- A. Boat launching (hand or trailered) through a Township right-of-way is prohibited. Boat launching through a Township right of way may only be made through designated public water access sites as provided in Minnesota State Statutes. All public water access sites must be maintained as provided in state statutes and adhere to the following requirements:
1. Parking must be provided for the anticipated usage of the access site. If adequate parking is not available at the access site to prevent users from parking along the shoulders of the roadway or in other unacceptable locations, then the necessary lands must be secured adjacent to the access site and roadway right-of-way.
 2. There shall be ample sight distance along the roadway in both directions in order that vehicles entering and leaving the roadway will not create a hazard to through traffic.
 3. Reasonable measures shall be taken to prevent pedestrians from entering the roadway and from congregating on the roadway, thereby creating a hazard to themselves and to the traveling public.
 4. The public water access site and other facilities shall not interfere with the maintenance of the roadway or bridges and, if necessary, shall be moved to accommodate reconstruction of the roadway or bridges.
 5. The Township shall be held harmless from any and all claims for damages by persons using the access or claims for additional compensation by the abutting land owners arising out of the using of roadway rights-of-way for a non-highway facility.
- B. The Township shall take reasonable measures to post or otherwise control the use of Township right-of-way, and to prevent damage caused by prohibited launching of boats through a right-of-way.

Section 6 - CULTIVATION AND LANDSCAPING

A. Cultivation

No person may cultivate, plant, harvest, or maintain agricultural crops, trees, bushes, or shrubs within a right-of-way which in any way impedes or obstructs the visibility of the right-of-way.

B. Landscaping

No person may cultivate, plant, or maintain grasses, flowers, vegetables, or other vegetation in any manner that obstructs visibility of a road or otherwise interferes with, obstructs, or renders dangerous for passage a right-of-way. No person may place watering systems or sprinkler heads within a right-of-way.

Section 7 - OBSTRUCTIONS AND JUNK

A. Obstructions

No person may place, maintain, or allow any obstruction in a right-of-way other than those specifically permitted by this Chapter, by state law or rule, or by written approval of the Town Board. Items prohibited by this section include, but are not limited to, fences, posts, structures, piled materials, hay bales, vehicles, trailers, campers, equipment, or any other items that interfere with the safe use or the maintenance of the right-of-way. No person shall park a functioning vehicle in a right-of-way in such a way as to unreasonably interfere with the safe use of a road or the maintenance of the right-of-way.

B. Junk

No person shall place or maintain Junk in a right-of-way.

Section 8 - ALTERATION OF GRADE

No person may alter or change the depth or contour of any portion of any ditch or embankment in a right-of-way without written approval of the Town Board.

Section 9 - UNAUTHORIZED MAINTENANCE

No person may work, maintain, improve, or repair the traveled portion of a right-of-way without the written approval of the Town Board.

Section 10 - DOING DAMAGE

No person shall cause damage to a right-of-way without the written approval of the Town Board. Any person doing damage within a right-of-way with approval of the Town Board shall return the right-of-way to at least the same condition it was in prior to the damage.

Section 11 - MAILBOXES, SIGNS AND NEWSPAPER BOXES

A. Mailboxes

Mailboxes and newspaper boxes are permitted within a right-of-way if they do not interfere with, obstruct, or render dangerous for passage a road. Mailboxes placed within a right-of-way must comply with all of the standards in Minnesota Rules Chapter 8818. The Town Board may remove and replace mailboxes that do not comply with the standards as provided in Minnesota Statute section 169.072.

B. Signs

No sign of any nature may be placed or allowed to remain in any right-of-way except an official traffic sign placed by a governmental authority or other signage expressly permitted by state law.

Section 12 - APPROACHES AND HEADWALLS

A. Approaches

No person may construct or reconstruct any approach to a road without first obtaining a permit from the Town Board. A person may be required to submit a map or drawing of the existing or proposed approach when seeking approval.

B. Culverts

1. A person constructing or reconstructing an approach may be required to install a culvert meeting the specifications set out by the Town Board if the Town Board determines a culvert is necessary for suitable approach to the road and to promote adequate drainage of the right-of-way.
2. The Town Board may require a culvert to be installed, or an existing culvert to be replaced or maintained, if it determines it is necessary for suitable approach to the road or to promote adequate drainage of the right-of-way. (Resolution 59, 8-13-2007)

C. Costs

A person constructing or reconstructing an approach to an existing road shall be responsible for paying all of the costs related thereto, including the cost of seeking all necessary approvals and the cost of a culvert if one is required. Property owners are responsible for maintaining all approaches and associated culverts on their property at their own cost.

D. Headwalls

No person may construct or reconstruct any headwall in a way that interferes with the safe use or maintenance of a right-of-way.

Section 13 - TOWN AND CONTRACTORS

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

Section 14 - PERMISSION

Any person receiving permission or a permit from the Town Board as provided in this Chapter must comply with all applicable federal, state, and local laws and rules as well as all applicable Township Ordinances, resolutions, specifications, regulations, and policies. Any person receiving permission or a permit must comply with all conditions, requirements, and limitations the Town Board expresses as part of the permission or permit. Failure to comply with any of the conditions, requirements, or limitations shall void the permission or permit and could place the person in violation of this Chapter.

Section 15 - ENFORCEMENT AND PENALTY

A. Correction Order

Upon discovery of a violation of this Chapter, the Town Board may issue a correction order to the violator ordering the person to correct the violation by a time certain. If the violator fails to comply with the correction order by the time indicated in the order, the Town Board may provide for the correction of the violation. Issuance of a correction order does not preclude imposition of the penalty set forth in this Chapter.

B. Immediate Correction

If the Town Board determines that the violation creates an immediate threat to public safety, the Town Board will make a good faith effort to notify the violator to immediately correct the situation. If the Town Board is not able to promptly reach the violator, or if the violator fails to immediately correct the situation upon notification, the Town Board will provide for the correction of the violation.

C. Cost of Correction

The cost of correcting a violation shall be the responsibility of the violator. If the Town Board provides for the correction of the violation, all expenses incurred, including reasonable attorneys' fees, shall be billed to the violator. If the bill is not paid by the due date, the Town Board may exercise any lawful options available to it to collect the amount due.

D. Penalty

Any person who violates this Chapter shall be guilty of a misdemeanor and subject to the penalties for such as provided in State law. Each day of existence of such violation shall constitute a separate offense. If convicted, the person may be assessed costs of prosecution as allowed by Minnesota Statutes section 366.01, subdivision 10.

Section 16 - SAVINGS CLAUSE

The failure of the Town Board to exercise, and any delay in exercising, any right under this Chapter, including enforcement, shall not operate as a waiver thereof and shall not constitute a waiver of the Township's interest, however created, in any right-of-way, easement, or any other type of property interest.

Section 17 – SNOWMOBILING AND ATV USE

A. Intent

It is the intent of this section to supplement the Laws of the State of Minnesota, Minnesota Statute Chapters 168 through 171, as they may be amended from time to time, with respect to the operation of certain motor vehicles commonly called snowmobiles and ATVs. This section is not intended to allow what the State Statutes prohibit.

B. Operation on Township Roads

No person shall operate an all-terrain vehicle (ATV) within any Township road right-of-way.

C. Operation on Township Property

No person shall operate a snowmobile or ATV on the Eureka Town Hall property, or school property. Permission from the Town Board may be granted to facilitate snowmobile and ATV training classes.

D. Personal Operation of Snowmobiles and ATV's

No person shall operate his/her snowmobile or ATV in a careless, reckless, or heedless manner, which endangers other persons or their property.

Section 18 – MAINTENANCE

A. The Town Board shall have the authority and responsibility to determine how the Township roads shall be maintained and how plowing, grading, paving, and brushing services shall be provided. The Town Board may consider joint power agreements, contract services or other legal means that the Town Board may find are in the public interest.

B. Snow Plowing

It is illegal and punishable as a misdemeanor to plow, shovel, blow, or place snow onto Township roadways.

Section 19 – TRAFFIC SIGNS

A. Hazard and Hazardous Signs

No sign may by reason of its location, color or intensity, create a hazard to the safe and efficient movement of vehicles or pedestrian traffic. No private sign may contain words which might be construed as traffic controls, such as "Stop", "Caution", "Warning", or otherwise resemble any official marker erected by a governmental body or agency, unless such sign is a directional sign.

Section 20 – TRAFFIC REGULATIONS

The regulatory provisions of Minnesota Statute Chapter 169, as it may be amended from time to time, are hereby adopted as a traffic ordinance regulating the use of highways, streets, and alleys within the Township and are hereby incorporated in and made a part of this Chapter as completely as if set out here in full.

Section 21 – CAPITAL PROJECTS PROGRAM

The Township of Eureka may have a capital projects program to address capital needs and/or discuss infrastructure programs. The Planning Commission shall annually create a proposed plan for Town Board review and modification or approval.

Chapter 3: Utility Installation

Section 1- USE OF RIGHT-OF-WAY BY LOCAL UTILITY PROVIDERS

A. Findings, Purpose and Intent.

It is the purpose of this Chapter is to establish reasonable ordinances, requirements, and restrictions regarding the use of Township right-of-way in order to protect the health, safety and welfare of Township residents, those traveling on Township roads, and the general public. It is also the purpose of this Chapter to protect the cumulative investment the public has made to construct, maintain, and improve the Township's roads by requiring those undertaking utility projects in and near the Township's right-of-way to obtain a permit from the Township and to be responsible for restoring the right-of-way directly or indirectly impacted by the project to at least the same or better condition they were in prior to the project. Finally, this Chapter provides for the recovery by the Town of its actual expenses incurred related to such projects.

As the road authority for the Township's roads, the Town Board has the authority and responsibility to provide for safe and efficient local roadways and to establish ordinances governing the use and maintenance of Town roadways and public right-of-way. This Chapter is adopted consistent with that authority as well as the authority provided the Town Board pursuant to 1997 Session Laws, Chapter 123, Minnesota Statutes, sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act"), Minnesota Statutes, sections 164.36, 169.832, 169.87, and the other laws governing applicable rights of the Township and users of the right-of-way. This Chapter shall be interpreted consistent with those statutes as well as with Minnesota Rules, parts 7819.0050 - 7819.9950 where possible. This Chapter shall not be interpreted to limit the regulatory and police powers of the Township to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

B. Election to Manage the Public Right-of-Way.

Pursuant to the authority granted the Township under state and federal statutory, administrative and common law, the Township hereby elects, pursuant to Minnesota Statutes, section 237.163, subdivision 2(b) to manage its right-of-way within the Township.

C. Definitions.

For the purpose of this Chapter, the following terms shall have the meaning given them in this Section.

Abandoned Facility

A facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.

Applicant

Any person requesting permission to excavate or obstruct a right-of-way.

Commission

The Minnesota Public Utilities Commission.

Construction Performance Bond

Any of the following forms of security provided at permittee's option:

- 1) Individual project bond;
- 2) Cash deposit;
- 3) Letter of Credit, in a form acceptable to the Township;
- 4) Self-insurance, in a form acceptable to the Township; or
- 5) A blanket bond for projects within the Township, or other form of construction bond, for a time specified and in a form acceptable to the Township.

Degradation

Means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the rights-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.

Degradation Cost

Subject to Minnesota Rules, part 7819.1100 means the cost to achieve a level of restoration, as determined by the Township at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules, parts 7819.9900 to 7819.9950.

Degradation Fee

Means the estimated fee established at the time of permitting by the Township to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

Delay Penalty

Is the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

Emergency

Means a condition that (1) poses a danger to life or health or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.

Equipment

Means any tangible asset used to install, repair, or maintain facilities in any right-of-way.

Excavate

Means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

Excavation permit

Means the permit which, pursuant to this Chapter, must be obtained before a person may excavate in a right-of-way. An excavation permit allows the holder to excavate that part of the right-of-way described in such permit.

Excavation permit fee

Means money paid to the Township by an applicant to cover the costs as provided in this Chapter.

Facility or Facilities

Means any tangible asset in the right-of-way required to provide utility service.

Local Representative

Means local person or persons, or designee of such person or persons, authorized by an applicant to accept service and to make decisions for that registrant regarding all matters within the scope of this Chapter.

Management Costs

Means the actual costs the Township incurs in managing its right-of-ways, including such costs, if incurred, as those associated with: registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, Chapter 123; Minnesota Statutes, sections 237.162 or 237.163; or any chapter enacted under those sections, or the Township fees and costs related to appeals taken as provided in this Chapter.

Obstruct

Means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the rights-of-way.

Obstruction Permit

Means the permit which, pursuant to this Chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein.

Obstruction Permit Fee

Means money paid to the Township by a permittee to cover the costs as provided in this Chapter.

Patch or Patching

Means a method of pavement replacement or roadway repair that is temporary in nature. A patch consists of (1) the compaction of the sub-base and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only on roads the Town Board has scheduled to be overlaid within five years.

Pavement

Means any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

Permit

Has the meaning given "right-of-way permit" in Minnesota Statutes, section 237.162.

Permittee

Means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the Township under this Chapter.

Person

Means an individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

Restore or Restoration

Means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

Restoration Cost

Means the amount of money paid to the Township by a permittee to achieve the level of restoration according to plates 1 to 13 of Minnesota Public Utilities Commission rules.

Rights-of-Way

Means the area on, below, or above a public road, highway, street, cartway, bicycle lane or public sidewalk in which the Township has an interest, including other publicly dedicated rights-of-way for travel purposes and utility easements of the Township. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

Rights-of-Way Permit

Means either the excavation permit or the obstruction permit, or both, depending on the context, required by this Chapter.

Right-of-Way User

Means a (1) a telecommunications right-of-way user as defined by Minnesota Statutes, section 237.162, subdivision 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

Service or Utility Service

Includes (1) those services provided by a public utility as defined in Minnesota Statutes, section 216B.02, subdivisions 4 and 6; (2) services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications systems as defined in Minnesota Statutes, Chapter 238; (4) services provided by a cooperative electric association organized under Minnesota Statutes, Chapter 308A; and (5) water, and sewer, including service laterals, steam, cooling or heating services.

Service Lateral

Means an underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an

underground facility that is used in the removal of wastewater from a customer's premises.

Temporary Surface

Means the compaction of sub-base and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the Township's two-year plan, in which case it is considered full restoration.

Trench

Means an excavation in the traveled surface of a road, with the excavation having a length equal to or greater than the width of the traveled surface.

Telecommunication right-of-way user

Means a person owning or controlling a facility in the right-of-way, or seeking to own or control a facility in the right-of-way that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this Chapter, a cable communication system defined and regulated under Minnesota Statutes, Chapter 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in Minnesota Statutes, section 216B.02, a municipality, a municipal gas or power agency organized under Minnesota Statutes, Chapters 453 and 453A, or a cooperative electric association organized under Minnesota Statutes, Chapter 308A, are not telecommunications right-of-way users for purposes of this Chapter.

Town Board

Means the Board of Supervisors of Eureka Township, Dakota County, Minnesota.

Township

Means geographical boundaries of Eureka Township, Dakota County, Minnesota.

Township Representative

Means a Township Supervisor or other person designated by the Town Board to conduct inspections or to otherwise oversee work done within right-of-ways, whether such work is done by permit or otherwise.

D. Permit Requirement.

1. Permit Required. Except as otherwise provided in this Chapter, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the Township to do so.
 - a. Excavation Permit. An excavation permit is required to excavate within a right-of-way related to the installation, repair, replacement, or removal of facilities.
 - b. Obstruction Permit. An obstruction permit is required to obstruct a right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.
 - c. Combination Permit. If a proposed utility project involves both the excavation and obstruction of a right-of-way, a person may apply for a combination excavation/obstruction permit.
2. Exclusions. The Township, its agents, and contractors performing work for the Township shall not be required to obtain permits from the Township to excavate or obstruct a right-of-way. Contractors performing work for the Township shall be required to erect and maintain such signs and other traffic control devices as are necessary to warn of the work and to protect public safety.
3. Permit Extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless: (i) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit; and (ii) a new permit or permit extension is granted.
4. Delay Penalty. In accordance with Minnesota Rule, part 7819.1000, subpart 3, the Township may establish and impose a delay penalty

for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration.

5. Permit Display. Permits issued under this Chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Township.

E. Permit Applications.

Application for a permit is made to the Township. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with, the requirements of the following provisions:

1. Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.
2. Payment of money due the Township for:
 - a. permit fees, estimated restoration costs and other management costs;
 - b. any outstanding amounts related to prior obstructions or excavations;
 - c. any undisputed loss, damage, or expense suffered by the Township because of applicant's prior excavations or obstructions of the right-of-way or any emergency actions taken by the Township; and
 - d. franchise fees or other charges, if applicable.
3. Payment of disputed amounts due the Township by posting security or depositing in an escrow account an amount equal to at least 110% of the amount owing.
4. Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the Township deems the existing construction performance bond inadequate under applicable standards.

F. Issuance of Permit; Conditions.

1. Permit Issuance. If the applicant has satisfied the requirements of this Chapter, the Township shall issue a permit.
2. Conditions. The Township may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use.

G. Permit Fees.

1. Excavation Permit Fee. The Township shall establish an Excavation permit fee in an amount sufficient to recover the following costs:
 - a. the Township management costs;
 - b. degradation costs, if applicable.
2. Obstruction Permit Fee. The Township shall establish the obstruction permit fee and shall be in an amount sufficient to recover the Township management costs.
3. Payment of Permit Fees. No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The Township may allow applicant to pay such fees within thirty (30) days of billing.
4. Non-Refundable. Permit fees that were paid for a permit that the Township has revoked for a breach as provided in this Chapter are not refundable.
5. Fees. All fees provided for in this Chapter shall be determined by Town Board and shall be designed to recover the actual costs the Township incurs related to the particular project and in managing its right-of-way.

H. Right-of-Way Patching and Restoration.

1. Timing. The work to be done under the excavation 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 due to unseasonal or other weather conditions which reasonably prohibit the work.

2. Patch and Restoration. Permittee shall patch its own work. The Township may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.
 - a. *Township Restoration.* If the Township restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the roadway settles due to permittee's improper backfilling, the permittee shall pay to the Township, within thirty (30) days of billing, all costs associated with correcting 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 Rule, part 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.
3. Standards. The permittee shall perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the Township and shall comply with Minnesota Rule, part 7819.1100.
4. Duty to Correct Defects. The permittee shall correct defects in patching or restoration performed by permittee or its agents. The permittee upon notification from the Township shall correct all restoration work to the extent necessary, using the method required by the Township. Said work shall be completed within five 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 by unreasonable weather conditions.
5. Failure to Restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the Township, or fails to satisfactorily and timely complete all restoration required by the Township, the Township at its option may do such work. In that event, the permittee shall pay to the Township, within thirty (30) days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the Township may immediately exercise its rights under the construction performance bond.

I. Supplementary Applications.

1. Limitation on Area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area: (i) make application for a permit extension and pay any additional fees required thereby; and (ii) be granted a new permit or permit extension.
2. Limitation on Dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

J. Other Obligations.

1. Compliance with Other Laws. Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the Township or other applicable rule, law or Ordinances. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minnesota Statutes, sections 216D.01-09 (Gopher One Call Excavation Notice System) and Minnesota Rules, Chapter 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and ordinances, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.
2. Prohibited Work. Except in an emergency, and with the approval of the Township, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

3. Interference with Right-of-Way. A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with Township parking ordinances. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.
4. Trenchless Excavation. As a condition of all applicable permits, permittee employing trenchless excavation methods including, but not limited to, horizontal directional drilling, shall follow all requirements set forth in Minnesota Statutes, Chapter 216D, Minnesota Rules, Chapter 7560, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the Township.

K. Denial of Permit.

The Township may deny a permit for failure to meet the requirements and conditions of this Chapter if the Township determines that the denial is necessary to protect the health, safety, and welfare, or if the Township determines such denial is necessary to protect the right-of-way and its current use.

L. Installation Requirements.

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules, parts 78 19.1 100 and 78 19.5000 and other applicable local requirements, in so far as they are not inconsistent with the Minnesota Statutes, sections 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minnesota Rules, Chapter 7560 and this Chapter.

M. Inspection.

1. Notice of Completion. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minnesota Rules, part 7819.1300.
2. Site Inspection. Permittee shall make the work site available to the Township and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

3. Authority of Township, Representative.

- a. At the time of inspection, the township representative may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.
- b. The township representative may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the township representative that the violation has been corrected. If such proof has not been presented within the required time, the township representative may revoke the permit as provided herein.

N. Work Done Without a Permit.

1. Emergency Situations. Each right-of-way user shall immediately notify the township representative of any event regarding its facilities that it considers to be an emergency. The right-of-way user may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two business days after the occurrence of the emergency, the right-of-way user shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this Chapter for the actions it took in response to the emergency.
2. Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by the Township, deposit with the Township the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this Chapter.

O. Supplementary Notification.

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the Township of the accurate information as soon as this information is known.

P. Revocation of Permits.

1. Substantial Breach. The Township reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or Ordinances, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:
 - a. The violation of any material provision of the right-of-way permit;
 - b. An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the Township or its citizens;
 - c. Any material misrepresentation of fact in the application for a right-of-way permit;
 - d. The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or
 - e. The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued by a township representative.
2. Written Notice of Breach. If the Township determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, Ordinances or any condition of the permit, the Township shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the Township, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.
3. Response to Notice of Breach. Within 24 hours of receiving notification of the breach, permittee shall provide the Township with a plan, acceptable to the Township that will cure the breach. Permittee's failure to so contact the Township, or permittee's failure

to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

4. Reimbursement of Township costs. If a permit is revoked, the permittee shall also reimburse the Township for the Township's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

Q. Location and Relocation of Facilities.

Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minnesota Rules, parts 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to townships.

R. Right-of-way Vacation.

If the Township vacates a right-of-way that contains the facilities installed pursuant to a permit issued by the Township, the rights of the owner of the installed facilities in the vacated right-of-way are governed by Minnesota Rules, part 7819.3200.

S. Indemnification and Liability.

By accepting a permit under this Chapter, permittee agrees to defend and indemnify the Township in accordance with the provisions of Minnesota Rule, part 7819.1250.

T. Abandoned and Unusable Facilities.

1. Discontinued Operations. A right-of-way user who has determined to discontinue all or a portion of its operations in the Township must provide information satisfactory to the Township that the right-of-way user's obligations for its facilities in the right-of-way under this Chapter have been lawfully assumed by another person.
2. Removal. Any right-of-way user who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the Township.

U. Appeal.

A right-of-way user that: (1) has been denied a permit; (2) has had a permit revoked; (3) believes that the fees imposed are not in conformity with Minnesota Statutes, sections 237.163, subdivision 6; or (4) disputes a determination of the township representative regarding compliance with this Chapter or of permit conditions may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the Town Board. The Town Board shall act on a timely written request at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the Town Board affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

Section 2- PERMIT REQUIREMENTS FOR LARGE UTILITY PROJECTS

A. Findings, Purpose and Intent.

The Town Board has experience with large utility projects and the impacts they can have on the Township, its residents, and the Township's infrastructure. Large utility projects include those issued a permit by the Minnesota Public Utilities Commission for the site or routing of pipelines, overhead lines or other facilities across multiple governmental jurisdictions within the state to one or more redistribution or refining sites. The facilities installed as part of these projects do not provide utility services directly to the homes and business along its route, but instead are a means of conveying the resource to a particular location for refinement or for redistribution. The Town Board recognizes the value and need for these projects, but must also act to mitigate the impacts large utility projects can have both in the crossing of Township roads and well as the related heavy hauling and construction traffic that occurs on Township roads as these facilities are installed. Many of the Township's roads and bridges were not constructed to handle the weight of the vehicles that may be utilized for these projects. In some cases, it may be possible to improve the roads to enhance their ability to accommodate the vehicles, but even in such cases the roads must be carefully monitored and inspected to identify any resulting damage or degradation that must be repaired. The purpose of this Chapter is to require a permit and place reasonable requirements and restrictions on such projects to mitigate their negative effects on the Township. It is also the purpose of this Article to ensure the Township is fully reimbursed for the costs it incurs related to the project in order to protect the Township's taxpayers and the limited funds the Town Board has available to it to adequately maintain the Township's roads and bridges.

B. Definitions.

The following definitions shall apply to this Chapter in addition to those contained in Section 16 of this Chapter to the extent they are not inconsistent with the following:

Haul Road

All public right-of-way located within the Township proposed to be used, or which are actually used, for the hauling of materials or equipment related to a large utility project, including construction access routes. Haul road shall also include any public right-of-ways used as a detour for public travel to avoid right-of-ways temporarily closed or obstructed for a large utility project.

Large Utility Project

The installation, extension, or expansion of a large energy facility as defined in Minnesota Statutes, section 216B.2421, subdivision 2 conducted pursuant to a routing or siting permit issued by the Minnesota Public Utilities Commission.

Permittee

Any person to whom a project permit has been granted by the Township under this Chapter.

Project Permit

A permit issued by the Town Board for a large utility project and which must be obtained before any such project may occur within the Township.

C. Permit Required.

No person may undertake a large utility project in the Township without first having obtained a project permit from the Township. A project permit is limited to large utility projects, is intended to be inclusive in that it shall contain all the permissions and agreements required from the Township, it shall set out or reference all conditions and requirements imposed by the Township for the particular project, and shall be the only permit an applicant is required to obtain from the Township for the project. A project permit shall include any right-of-way obstruction or excavation permit that would otherwise be required by this Chapter and shall also address all hauling, construction traffic, overweight vehicles, and other potential impacts the project may have on the Township.

D. Application Process.

An application for a project permit shall be submitted, and complete applications will be processed, in accordance with the terms of this Section.

1. Pre-Application Meeting and Road Inspection. A proposed applicant shall meet with the Township at least once prior to submitting an application to discuss the project, proposed route of the utility line, proposed location of related facilities, proposed haul roads, proposed construction accesses, review the requirements of this Chapter, and to discuss such other matters as may be relevant to the project and its impact on the Township. The Township and the proposed applicant shall conduct an inspection of any Township roads identified as potential haul roads. The purpose of the inspection is to assess the current condition of the roads, bridges, and related facilities and to determine whether they are sufficient, or can reasonably be made sufficient, to handle the anticipated truck traffic. The Township may, at the applicant's sole expense, have the proposed haul roads inspected by an engineer to assist in determining the adequacy of the roads and bridges to serve as haul roads, to assess and document the present conditions of the proposed haul roads, and to determine whether any pre-project improvements are required in order to make one or more roads or bridges sufficient to serve as haul roads. The Township may recommend to the proposed applicant alternative haul roads that the Township determines will be better able to accommodate the anticipated truck traffic and minimize safety and maintenance concerns. If the Township determines a right-of-way or bridge cannot safely accommodate the anticipated truck traffic to serve as a haul road, and determines it cannot be reasonably improved to safely accommodate such traffic, the proposed applicant shall not designate or use the right-of-way as a haul road.
2. Application. An applicant shall apply for a project permit from the Township on an application form approved by the Town Board. The application shall be submitted to the Town Clerk together with the application fee and a construction performance bond in an amount the Township determines is sufficient to cover all costs associated with any pre-construction improvements of haul roads, additional maintenance during the project, and restoring the haul roads to at least the same condition they were in prior to the project. The applicant shall also provide the Township a cash escrow in an amount determined by the Town Board to defray its out-of-pocket and professional costs associated with processing and administering compliance with the project permit including, but not limited to, engineering, legal, and administrative costs.

The application shall, at a minimum, include the following information:

- a. A detailed written description of the proposed utility work, detailed plans for construction activities within Township rights-of-way and the timetable for the project; and
- b. Identification of proposed haul roads related to the project including whether any detours of public traffic will be required. The applicant shall identify all Township roads which are proposed to be used in the delivery of utility construction materials, the delivery of utility construction equipment, and all company or contract employee access routes. The applicant shall also identify off-road construction staging areas, material and equipment loading and unloading areas, and employee parking areas for the duration of the proposed utility construction within the Township.

3. Township, Review of Applications. The Town Board may hold one or more public hearings on the proposed project permit. The Town Board shall consider the information provided by the applicant and such other information as it deems relevant in reviewing the application. The Town Board shall also consider the potential impacts of the project on the Township and the conditions it determines are necessary to place on a permit in order to address the identified impacts. The Township may impose reasonable conditions upon the issuance of a project permit and the performance of the applicant thereunder to protect the public health, safety, and welfare, and to protect the rights-of-way and their use. The Town Board shall, at a minimum, consider the following when reviewing an application for a project permit:

- a. Pre-Project Road Improvements. The Township shall determine, in its reasonable discretion, if any pre-project improvements are required on any of the rights-of-way proposed to serve as haul roads for the project. The project improvements may include, but are not limited to, sub-grade correction, base repair, re-surfacing, culvert replacement, and bridge stabilization or replacement. Any such improvements shall be performed in accordance with the standards, specifications and requirements identified by the Township. The Township shall specifically identify in the project permit the pre-project improvements required to be completed before the rights-of-way may be used as haul roads. The Township will perform the pre-project improvements at the applicant's

expense unless the Town Board and the applicant agree the applicant shall perform the improvements; and

- b. Additional Maintenance Needs. The Township shall determine if any additional maintenance work is required on the haul roads during the project to accommodate the additional traffic and the resulting impacts on the public such as grading, re-graveling, dust control, and ditch repair. The required additional maintenance work shall be described within the project permit.

E. Escrow.

At the time of application, the applicant shall be required to place cash in escrow with the Township. The Town Board shall determine the required amount of escrow after the pre-application meeting, which shall be an amount sufficient to guarantee all engineering, planning, and legal expenses related to the project incurred by the Township before and after the application for the review and issuance of the project permit, monitoring of the permit conditions, inspections of all right-of-way improvements, and enforcement of the permit. The Township shall withdraw funds from the escrow as needed to reimburse itself for the costs it incurs. If at any time the Town Board determines the amount of the escrow will not be sufficient to fully reimburse the Township's costs, the permittee shall escrow such additional amounts with the Township as determined by the Town Board within 15 days of the Township providing written notice of the need for additional escrow. Costs incurred for improving, maintaining and restoring rights-of-way shall be billed as provided in Section 2 of this Chapter.

F. Construction Performance Bond.

At the time of application, the applicant shall be required to provide the Township a construction performance bond in an amount the Town Board determines is sufficient to cover at least 110% of the anticipated costs to improve, provide additional maintenance, and restore the rights-of-way identified as haul roads for the project.

G. Issuance of Project Permit; Conditions.

If an applicant provides the required application information, pays the application fee, provides the required escrow, participates in the inspections required hereunder, and agrees to comply with the conditions imposed on the permit, the Town Board shall issue the requested project permit. All hauling and work performed in the Township's rights-of-way by the applicant, its agents, contractors, assigns, or successors shall be limited to those areas and the haul roads identified in the project permit. All project permits are subject to, and are conditioned upon, the permittee's compliance with all reasonable requirements and conditions stated in the permit as well as the requirements of this Chapter including, but not limited to, the following:

1. Escrow. The permittee shall fully reimburse the Township for all reasonable out-of-pocket costs and fees it incurs related to the project including, but not limited to, costs incurred to improve, maintain, and repair haul roads and rights-of-way crossed by the applicant's facilities. The Township shall deduct its expenses from the escrow provided and replenished as required by Section 2E of this Chapter;
2. Indemnification. By accepting a project permit under this Chapter, permittee agrees to defend indemnify, and hold the Township, its officers, employees and agents harmless, including attorney's fees and defense costs, from all losses, liability or claims for bodily injury or death, property damage, or otherwise arising from or related to the project. The permittee is not required to indemnify the Township for losses or liability arising directly from the Township's own negligence or wrongful acts or omissions;
3. Compliance with Other Laws. The permittee is responsible for obtaining all such other permits or permissions related to the project as may be required by law, except that no other permits shall be required from the Township once it issues a project permit, provided the project does not change in any material way with respect to its impacts on the Township after the project permit is issued. If such a material change does occur, the permittee shall immediately apply for an amended project permit. Without limiting the foregoing, the addition or alteration of a haul road not designated in the project permit shall constitute a material change in the project requiring an amended project permit; and
4. Improvement, Maintenance, and Restoration. The permittee shall be responsible for the costs for pre-project improvements, additional

maintenance, and restoration of the rights-of-way as provided in Section 2H of this Chapter.

H. Improvement, Maintenance and Restoration of Haul Roads.

The Township shall provide for the improvement, additional maintenance, and the restoration of the rights-of-way identified as haul roads in the project permit unless the Township and permittee agree otherwise. The permittee shall be responsible for fully reimbursing the Township for all costs it incurs to perform this work and shall pay the Township within thirty (30) days of billing for such costs. Permittee shall also be responsible for reimbursing the Township for all costs it may incur to repair and restore any other rights-of-way damaged as a result of the project regardless of whether they were identified as a haul road in the project permit. If permittee fails to pay as required, the Township may revoke the permit upon prior notice to the permittee and may immediately exercise its rights under the construction performance bond to recover its costs, including the costs it incurs to collect under the bond. The Township may also draw upon any funds in the cash escrow and pursue any other options available to it under law to recover its costs including all costs incurred to seek such recovery.

I. Performance Standards and Requirements.

Permittee's shall comply with the following standards, requirements, and limitations.

- a. Road Crossings. Any underground utilities crossing a right-of-way shall be constructed without open cuts in the roadway when practicable. The permittee shall furnish detailed construction plans for all utility crossings within the right-of-way. The Township Engineer shall recommend to the Town Board whether the crossing(s) can be completed without disturbing the existing roadway. In the event an open road cut crossing is necessary, the permittee shall provide detailed cross sections of the existing Township road at the point of the crossing and detailed restoration plans. The Township Engineer shall recommend to the Town Board what detailed road cut restoration plans will be required as a condition of the road crossing.
- b. Construction Access Route Signage. The permittee shall be required to post signs for all construction access, according to Township specifications, that clearly identify authorized construction access routes for materials delivery, equipment delivery, and construction employees. The permittee shall inform and instruct all contractors and sub-contractors,

including equipment and material suppliers, of the restrictions for construction access and identify all authorized haul roads.

- c. Heavy Construction Equipment Usage on Township Roads. The operation of heavy construction equipment on Township roads, including but not limited to backhoes, cranes, and bulldozers, shall be prohibited, except as specifically authorized in the project permit.
- d. Construction Inspection, Damage and Repair. The Township shall monitor and inspect all Township roads used by the permittee, including the permittee's use of any unauthorized access routes, during the approved utility construction and shall identify any damages. In the event any Township road is damaged by the permittee's construction activity, the permittee shall be liable for the cost of repair and restoration of the road, including but not limited to sub-grade correction, base repair, re-surfacing, culvert replacement, bridge repair and ditch restoration.
 - i. Financial Surety. The Township shall require a financial surety in a form acceptable to the Township to guarantee performance of the right-of-way improvement, maintenance and restoration requirements. The surety shall also be sufficient to guarantee all engineering, planning, and legal expenses to be incurred by the Township for the review and issuance of the right-of-way permit, monitoring of the permit conditions, inspections of all right-of-way improvements, and enforcement of the permit. The amount and form of the financial surety shall be determined by the Town Board. Upon completion of the required improvements and a recommendation of the Township Engineer to accept the improvements, the financial surety shall be released by the Town Board,
 - ii. Obstructions Prohibited. No equipment, materials, vehicles, or facilities related to the project shall be placed, parked, or otherwise located within a right-of-way in a way that obstructs the maintenance or safe pedestrian or vehicular usage of the rights-of-way.
 - iii. Parking and Loading. Vehicle parking and loading and unloading of vehicles related to the project is prohibited within the rights-of-way in areas unless expressly allowed in the project permit.

J. Revocation of Permit.

The Township may revoke a project permit following the procedures set out in 1P of this Chapter.

K. Application of Articles.

The provisions of Chapter 3 generally apply to large utility projects except to the extent they contradict an express provision of Chapter 2. Right-of-way users are not required to comply with the requirements of Chapter 2 except to the extent they engage in a large utility project. (Ordinance 2013-02, 4-8-2013)

Chapter 4: Firearms

Section 1 – SHOOTING AND UNENCASED FIREARMS PROHIBITED

No shooting or carrying of firearms which are not encased shall be permitted within the territorial limits of the Township of Eureka by any person under any circumstances whatever, except:

- A. A landowner or his guest by express invitation upon lands owned by him may shoot or carry a firearm, provided that no shot, bullet, or ammunition component used shall pass beyond the boundaries of his property, nor shall any discharge of a firearm occur within five hundred (500) feet of any building on adjoining property or occupied residence, nor in any event create a nuisance or danger to other persons.
- B. By law enforcement or military personnel while in the course of their duties.
- C. By any person where such firearm is unloaded and carried or transported in a locked vehicle trunk or in a vehicle without trunk, where such firearm is so placed so to be out of reach of the driver and all passengers.

All other shooting of firearms in the Township of Eureka is prohibited.

Section 2 - PERSONS PROHIBITED

It shall be unlawful for any person within the Township of Eureka to own, possess, carry or have in his custody or control any firearms or ammunition, unless such person:

- A. Shall be at least eighteen (18) years of age. Persons under the age of eighteen (18) years must either (1) hold a firearms safety certificate recognized by the Minnesota Department of Conservation; or (2) be accompanied by his parent or guardian or by an adult who has written permission from the minor's parent or guardian.
- B. Shall not within the previous five (5) years have been:
 - 1. Convicted of a felony under the laws of this state or any other jurisdiction, or a violation of this Chapter or any other law relating to weapons.
 - 2. Committed under the statutory procedures of this state or any other jurisdiction to any institution for treatment of a mental, drug, or alcoholic condition.
- C. It shall be unlawful for any person to be in possession of, carry or transport

any firearm or ammunition while under the influence of alcohol or hallucinatory chemical, narcotics, or other drugs.

Section 3 - POSSESSION AND TRANSPORTING OF ASSAULT WEAPONS

It shall be unlawful for any person within the Township to carry on his person or to transport by any means, any assault weapon for any purpose whatever, except by law enforcement officers or military personnel in the course of their duties.

Section 4 - HAND GUNS

Except in conformance with a validly issued state permit, it shall be unlawful for any person within the Township to carry on his person at any place other than his residence, or to transport in any vehicle, any hand gun except:

- A. By law enforcement or military personnel during the course of duty.
- B. While unloaded and being transported in an automobile or truck, such hand gun shall be locked in the trunk of such automobile or truck and if such automobile or truck does not have a trunk, the hand gun shall be secured in the furthest rear portion of the vehicle but in an area not normally occupied by the driver or passenger(s) and shall be encased or dismantled.

Section 5 - EXCEPTIONS

- A. Nothing in this Chapter shall be construed to embrace the firing of any gun, pistol or other firearm when done in the lawful defense of person, family, or property, or in necessary enforcement of law.
- B. Nothing in this Chapter shall be construed to embrace or restrict the owner or operator of land from shooting predators or varmints on land owned or operated by him.

Section 6 - PENALTY

Any person violating this Chapter or any portion thereof shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than One-hundred-dollars (\$100.00) or by imprisonment in the County jail for a period not exceeding ninety (90) days. Each such violation shall constitute a separate offense punishable as aforesaid.

Chapter 5: Subsurface Sewage Treatment Systems (SSTS)

SECTION 1.00 PURPOSE, INTENT, AND AUTHORITY

1.01 PURPOSE.

The purpose of this Chapter is to establish minimum requirements for Ordinances of SSTS for the treatment and dispersal of sewage within the applicable jurisdiction of the Township to protect public health and safety, groundwater quality, and to prevent or eliminate the development of public nuisances. It is intended to serve the best interest of the Township's citizens by protecting its health, safety, general welfare and natural resources.

1.02 INTENT.

- A. The protection of lakes, rivers and streams, wetlands, and groundwater in the township essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the township in perpetuity.
- B. The Ordinances of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
- C. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
- D. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
- E. The provision of technical assistance and education, plan review, inspections, SSTS surveys and complaint investigations to prevent and control water-borne diseases, lake degradation, groundwater related hazards, and public nuisance conditions.

1.03 AUTHORITY.

This Chapter is adopted pursuant to Minn. Stat. chs. 115, 145A, 375, or successor statutes, and Minn. R. chs. 7080, 7081, and 7082, or successor rules.

SECTION 2.00 DEFINITIONS

Unless the context clearly indicates otherwise, the following words and phrases shall have the meanings ascribed to them in this section. Unless specifically defined herein, terms used in this Chapter shall have the definition provided in Minn. Stat. § 115.55 and Minn. R. chs. 7080, 7081, 7082, and 7083 and if not defined there, shall have common usage meaning. For purposes of this Chapter, the words “must” and “shall” are mandatory and not permissive unless a different definition appears in this Chapter.

- 2.01 "AS BUILTS"** means “record drawings” as defined below.
- 2.02 "CLASS V INJECTION WELL"** means a shallow well used to place a variety of fluids directly below the land surface, which includes a domestic SSTS serving more than 20 people. The United States Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large capacity cesspools are specifically prohibited (See 40 CFR Parts 144 and 146).
- 2.03 "CLUSTER SYSTEM"** means a wastewater collection and treatment system under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings.
- 2.04 "DESIGN FLOW"** means the daily volume of wastewater for which an onsite/cluster system is designed to treat and discharge.
- 2.05 "FAILURE TO PROTECT GROUNDWATER"** means a SSTS that does not protect groundwater such as a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance described in Minn. R. 7080.1500, subps. 4(D) and 4(E); and a system not abandoned in accordance with Minn. R. 7080.2500. The determination of the threat to groundwater for other conditions must be made by a qualified employee or a licensed inspection business.
- 2.06 "IMMINENT THREAT TO PUBLIC HEALTH AND SAFETY"** means a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; sewage tanks with unsecured, damaged, or weak maintenance access covers; or any other situation with the potential to immediately and adversely affect or threaten public health or safety. The determination of protectiveness for other conditions must be made by a qualified employee inspector or a licensed inspection business.

- 2.07** "**ISTS**" means an individual sewage treatment system as defined in Minn. R. 7080.1100, subp. 41.
- 2.08** "**MINOR REPAIR**" means the repair or replacement of an existing damaged or faulty component/part of an SSTS that will return the SSTS to its operable condition. The repair shall not alter the original area, dimensions, design, specifications or concepts of the SSTS.
- 2.09** "**MPCA**" means the Minnesota Pollution Control Agency.
- 2.10** "**MSTS**" means a mid-sized subsurface sewage treatment system as defined in Minn. R. 7081.0020, subp. 4.
- 2.11** "**PERSON**" means any human being, any municipality or other governmental or political subdivision, or other public agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity.
- 2.12** "**RECORD DRAWINGS**" means a set of drawings which reasonably document the final in-place location, size, and type of all SSTS components including the results of any materials testing performed and a description of conditions during construction of the system. Record drawings were previously known as "as built."
- 2.13** "**SEPTIC INSPECTOR**" means the qualified and licensed individual or company appointed by the Town Board to conduct SSTS inspections and enforce the MPCA rules incorporated by this Chapter, and its staff and designated agents.
- 2.14** "**SSTS**" means a subsurface sewage treatment system as defined in Minn. R. 7080.1100, subp. 82.
- 2.15** "**SHORELAND/FLOODPLAIN AREA**" means those areas covered by Dakota County Ordinance 50, Shoreland and Floodplain Management.
- 2.16** "**STATE**" means the State of Minnesota.
- 2.17** "**TOWN**" or "**TOWNSHIP**" means Eureka Township, Minnesota.
- 2.18** "**TOWN BOARD**" means the Eureka Township Board of Supervisors.
- 2.19** "**TREATMENT LEVEL**" means treatment system performance levels as defined in Minn. R. 7083.4030, Table III for testing of proprietary treatment products.

- 2.20 "TYPE I SYSTEM"** means an ISTS designed according to Minn. R. 7080.2200 through Minn. R. 7080.2240, as may be amended.
- 2.21 "TYPE II SYSTEM"** means an ISTS designed according to Minn. R. parts 7080.2250 to 7080.2290, as may be amended.
- 2.22 "TYPE III SYSTEM"** means an ISTS designed according to Minn. R. 7080.2300, as may be amended.
- 2.23 "TYPE IV SYSTEM"** means an ISTS designed according to Minn. R. 7080.2350, as may be amended.
- 2.24 "TYPE V SYSTEM"** means an ISTS an ISTS designed according to Minn. R. 7080.2400, as may be amended.

SECTION 3.00 GENERAL PROVISIONS

3.01 SCOPE.

This Chapter regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the Township's applicable jurisdiction including but not limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of the Township shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Chapter or by a system that has been permitted by the MPCA.

3.02 JURISDICTION.

This Chapter applies to all land within the Township.

SECTION 4.00 ADMINISTRATION

4.01 TOWNSHIP.

The Septic Inspector shall administer the SSTS program and all provisions of this Chapter. At appropriate times, the Town Board shall review, revise, and update this Chapter as necessary. The Septic Inspector shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program.

4.02 STATE OF MINNESOTA.

When a single SSTS or group of SSTS under single ownership within one-half mile of each other have a design flow greater than 10,000 gallons per day, the owner or owners shall make application for and obtain a state disposal system permit from the MPCA in accordance with Minn. R. ch. 7001. If the measured daily flows for a consecutive seven-day period exceed 10,000 gallons per day, a state disposal system permit is required.

A state disposal system permit is also required for any SSTS or group of SSTS that the commissioner determines has the potential or an increased potential to cause adverse public health or environmental impacts if not regulated under a state permit. Conditions for these permits include systems in environmentally sensitive areas, unsubstantiated or unexpected flow volumes, and systems requiring exceptional operation, monitoring, and management.

SECTION 5.00 GENERAL REQUIREMENTS

5.01 RETROACTIVITY.

- A. ALL SSTS. Except as provided in section 5.01(B), all provisions of this Chapter shall apply to any SSTS regardless of the date it was originally permitted.
- B. EXISTING PERMITS. Unexpired permits, which were issued prior to the effective date of this Chapter, shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system ownership.
- C. SSTS ON LOTS CREATED AFTER JANUARY 23, 1996. All lots created after January 23, 1996, must have a minimum of two soil treatment and dispersal areas that can support systems as described in Minn. R. parts 7080.2200 through 7080.2230 or site conditions described in Minn. R. 7081.0270, subps. 3 through 7.

5.02 UPGRADE, REPAIR, REPLACEMENT, AND ABANDONMENT.

- A. FAILURE TO PROTECT GROUNDWATER. An SSTS that is determined not be protective of groundwater in accordance with Minn. R. 7080.1500, subp. 4(B) shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Chapter within 10 months of receipt of notice of noncompliance from the Septic Inspector.
- B. IMMINENT THREAT TO PUBLIC HEALTH OR SAFETY. An SSTS that is determined to be an imminent threat to public health or safety shall be upgraded, repaired, replaced or abandoned by the owner in accordance

with the provisions of this Chapter within 30 days of receipt of notice of noncompliance from the Septic Inspector.

- C. **ABANDONMENT.** Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with section 8.00 of this Chapter and Minn. R. 7080.2500.

5.03 SSTS IN FLOODPLAINS.

SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain should be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements of Minn. R. 7080.2270 and all relevant local requirements are met.

5.04 CLASS V INJECTION WELLS.

All owners of new or replacement SSTS that are considered to be Class V injection wells as defined in the Code of Federal Ordinances, title 40, part 144, are required to submit SSTS inventory information to the United States Environmental Protection Agency and the MPCA. Owners are also required to identify all Class V injection wells in property transfer disclosures.

5.05 SSTS LICENSE REQUIRED.

All design, installation, alteration, repair, maintenance, operation, pumping, and inspection activities for SSTS located in the township must be completed by a business licensed by the state under Minn. R. ch. 7083, an appropriately certified qualified employee, or a person exempted under Minn. R. 7083.0700, subps. 1(A), (C), (D), (F), (G), (H) and (I). Individuals exempt from a state SSTS license under Minn. R. 7083.0700, subps. 1(A), (C), (D), (F), (G), (H) and (I) must follow all applicable local, state, and federal requirements. Property owners that employ a business to perform this work must hire a business that is licensed in accordance with Minn. R. ch. 7083.

No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by the MPCA in accordance with Minn. R. ch. 7083, except as exempted in Minn. R. 7083.0700, subps. 1(A), (C), (D), (F), (G), (H) and (I).

5.06 PROHIBITIONS.

- A. **OCCUPANCY OR USE OF BUILDING WITHOUT A COMPLIANT SSTS.** It is unlawful for any person to maintain, occupy, or use any building intended for habitation to dispose of wastewater in a manner that does not comply with the provisions of this Chapter.

- B. **SEWAGE DISCHARGE TO GROUND SURFACE OR SURFACE WATER.** It is unlawful for any person to construct, maintain, or use any wastewater treatment system regulated under this Chapter that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted by the MPCA under the National Pollutant Discharge Elimination System program.
- C. **SEWAGE DISCHARGE TO A WELL OR BORING.** It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minn. R. 4725.2050, or any other excavation in the ground that is not in compliance with this Chapter.
- D. **DISCHARGE OF HAZARDOUS OR DELETERIOUS MATERIALS.** It is unlawful for any person to discharge into any treatment system regulated under this Chapter any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

5.07 REQUIRED SUBMISSION OF MAINTENANCE REPORTS.

Licensed maintenance businesses must abide by the requirements described in Minn. R. 7083.0770, subp. 2. All written reports required by Minn. R. 7083.0770, subp. 2 must be provided to the homeowner and the Septic Inspector within 30 days after any maintenance work is performed.

SECTION 6.00 SSTS STANDARDS

6.01 STANDARDS ADOPTED BY REFERENCE.

Minn. Stat. § 115.55 and Minn. R. chs. 7080 and 7081 and all other referenced laws and rules, as may be amended, are adopted by reference and made a part of this Chapter.

6.02 AMENDMENTS TO THE ADOPTED STANDARDS.

- A. **DETERMINATION OF HYDRAULIC LOADING RATE AND SSTS SIZING.** Table IX from Minn. R. 7080.2150, subp. 3(E) entitled *Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detail Soil Descriptions* and Table IXa from Minn. R. ch. 7080.2150, subp. 3(E) entitled *Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Percolation Tests* and herein adopted by reference shall both be used

to size SSTS infiltration areas using the larger sizing factor of the two for SSTS design.

- B. **HOLDING TANKS.** Holding tanks may be used for the following applications only after it can be shown conclusively by the property owner that a SSTS permitted under this Chapter cannot be feasibly installed:
1. As a replacement for an existing failing SSTS;
 2. For an SSTS that poses an imminent threat to public health or safety; or
 3. For use with buildings with limited water use.

6.03 COMPLIANCE CRITERIA FOR EXISTING SSTS.

- A. SSTS built before April 1, 1996, outside of areas designated as shoreland areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments must have at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock. The vertical separation measurement shall be made outside the area of system influence in an area of similar soil.
- B. SSTS built after March 31, 1996, or SSTS located in a shoreland area, wellhead protection area, or serving a food, beverage, or lodging establishment as defined under Minn. R. 7080.1100, supb. 84 must have a three-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Unless otherwise determined by the Septic Inspector, existing systems that have no more than a 15 percent reduction to the minimum required 36-inch separation distance are considered compliant. (i.e., a separation distance no less than 30.6 inches). This reduction is to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics. The vertical separation measurement shall be made outside the area of system influence in an area of similar soil.

6.04 HIGHEST STANDARDS PREVAIL.

Where the conditions imposed by a provision of this Chapter are either more restrictive or less restrictive than comparable conditions imposed by a provision of this Chapter or any other applicable law, rule, or Ordinances, the provision that establishes the higher standard for the promotion and protection of the public health, safety, and general welfare shall prevail.

SECTION 7.00 SSTS PERMITTING

7.01 PERMITS REQUIRED.

- A. **PERMIT REQUIRED.** It is unlawful for any person to construct, install, modify, or replace a SSTS in the township without the appropriate permit from the Septic Inspector.
- B. **PERMITTING NOT EXCLUSIVE.** The obtaining of a permit shall not be deemed to exclude the necessity of obtaining other appropriate permits or approvals. Compliance with the provisions of this Chapter shall not relieve any person of the need to comply with any and all other applicable rules, ordinances, and laws.

7.02 CONSTRUCTION PERMIT.

- A. **ACTIVITIES REQUIRING A CONSTRUCTION PERMIT.** A construction permit is required for installation of a new SSTS, for replacement of an existing SSTS, or for any repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.
- B. **ACTIVITIES NOT REQUIRING A CONSTRUCTION PERMIT.** A construction permit is not required for minor repairs or replacements of system components that do not alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function.
- C. **APPLICATION FOR PERMIT.** Permit applications shall be submitted to the Septic Inspector on forms provided by the Town. Applicants shall provide all information as required for the administration of this Chapter.
- D. **CONTENTS OF PERMIT APPLICATION.** The permit application shall include the following:
 - 1. The names, addresses, and telephone numbers of the applicant and permittee;
 - 2. The property identification number and address or other description of the real property on which the system will be located;
 - 3. A site evaluation report as described in Minn. R. 7080.1730;
 - 4. A design report as described in Minn. R. 7080.2430;

5. The infield verification as described in Minn. R. 7082.0500, subp. 3(A);
 6. A management plan as described in Minn. R. 7082.0600 and section 7.03 of this Chapter; and
 7. Copies of any required municipal, county, state, or federal permits or approvals.
- E. APPLICATION FEE. The application fee shall accompany the permit application.
- F. APPLICATION REVIEW. The Septic Inspector shall review a permit application and supporting documents to determine whether the application is complete. Upon satisfaction that the proposed work will conform to the provisions of this Chapter, the Septic Inspector shall issue a written permit authorizing construction of the SSTS as designed. If the applicant changes the proposed work to be conducted under an approved permit application, the applicant must file an amended application with the Septic Inspector detailing the changed conditions prior to initiating or continuing construction, modification, or operation. The Septic Inspector shall review the amended application and either approve or deny the application.
- G. APPROVAL OF PERMIT REQUIRED. The Septic Inspector must review and approve the permit application and management plan before issuing a permit. Construction must not be initiated until the Septic Inspector grants a construction permit.
- H. PERMIT EXPIRATION. The construction permit is valid for a period of no more than one year from its date of issue, unless it is extended in accordance with this section or construction has been completed satisfactorily, whichever is shorter. Satisfactory completion of construction shall be determined by receipt of final record drawings and a signed certification that the construction or installation of the system was completed in substantial conformance to the approved design documents by the Septic Inspector or a licensed inspection business, which is authorized by the Septic Inspector and independent of the owner and the SSTS installer.
- I. EXTENSIONS AND RENEWALS. The Septic Inspector may grant an extension of the construction permit if the construction has commenced prior to the original expiration date of the permit. The permit may be extended for a period of no more than six months.
- J. PERMIT NOT TRANSFERABLE. A construction permit shall not be transferable to a new owner. The new owner must apply for a new construction permit in accordance with this section.

- K. **POSTING.** The construction permit shall be posted on the property in such a location and manner so that the permit is visible and available for inspection until construction is completed and certified.
- L. **CONFLICT OF INTEREST.**
1. A licensed inspection business that inspects an existing SSTS is allowed to subsequently design and install a new SSTS for that property provided the inspection business is also licensed to design and install.
 2. A licensed inspection business working on behalf of the Septic Inspector must not design or install systems that the business will be responsible for permitting or inspecting as part of its contract with the township.
- M. **DENIAL AND RIGHT TO APPEAL.** If the Septic Inspector denies a permit to an applicant, the applicant shall be notified of such denial in writing. The Septic Inspector shall serve the denial by personal service or by certified mail to the address designated in the permit application. Service by certified mail shall be deemed to be complete upon mailing. The applicant may appeal the permit denial by filing a request for a hearing. The hearing request shall be in writing stating the grounds for the appeal and delivered to the Town by giving the Town Clerk said writing in person or sending the writing by certified mail within 10 township working days of the service of the permit denial, exclusive of the day of service. Following timely service of a request for a hearing, the Town Board shall set a time and place for the hearing pursuant to section 13.00 hereof.

7.03 MANAGEMENT PLAN.

- A. **PURPOSE.** The purpose of management plans is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required. The plan is to be provided by the certified designer to the system owner when the treatment system is commissioned.
- B. **SSTS REQUIRING MANAGEMENT PLANS.**
Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the Septic Inspector with the construction permit application for review and approval. The Septic Inspector shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification.

- C. **REQUIRED CONTENTS.** Management plans shall include:
1. Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;
 2. Monitoring requirements;
 3. Maintenance requirements including maintenance procedures and a schedule for routine maintenance;
 4. Statement that the owner is required to notify the Septic Inspector when the management plan requirements are not being met;
 5. Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence; and
 6. Other requirements as determined by the Septic Inspector.

7.04 OPERATING PERMIT.

- A. **PERMIT REQUIRED.** An operating permit is required for all treatment systems installed under Minn. R. 7080.2290 (holding tanks), Minn. R. 7080.2350 (Type IV System), Minn. R. 7080.2400 (Type V System) and Minn. R. ch. 7081 (MSTS). Sewage shall not be discharged to a treatment system requiring an operating permit until the Septic Inspector certifies that the treatment system was installed in substantial conformance with the approved plans, receives the final records drawings of the treatment system, and a valid operating permit is issued to the owner.
- B. **APPLICATION FOR PERMIT.** Permit applications shall be submitted to the Septic Inspector on forms provided by the Town. Applicants shall provide all information as required for the administration of this Chapter.
- C. **CONTENTS OF PERMIT APPLICATION.** The permit application shall include the following:
1. The names, addresses, and telephone numbers of the applicant and permittee;
 2. The construction permit reference number and date of issue;
 3. The final record drawings of the treatment system; and

4. Owners of holding tanks must submit a copy of a valid executed monitoring and disposal contract with a licensed maintenance business.
- D. APPLICATION FEE. The application fee shall accompany the permit application.
 - E. MONITORING AND DISPOSAL CONTRACT. Owners of holding tanks shall provide to the Septic Inspector a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business that guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with Minn. R. 7082.011, subp. 3(G). The owner must hold a valid contract with a licensed maintenance business at all times until such time the holding tank is abandoned or the property sold. This contract requirement is waived if the owner is a farmer who is exempt from licensing under Minn. Stat. §115.56, subd. 3(b)(3).
 - F. APPLICATION REVIEW. The Septic Inspector shall review the application, the record drawings, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the Septic Inspector. If the submitted application and documents fulfill the requirements, the Septic Inspector shall issue an operating permit within 10 working days of receipt of the permit application.
 - G. PERMIT TERMS AND CONDITIONS. The operating permit shall include the following:
 1. System performance requirements;
 2. System operating requirements;
 3. Monitoring locations, procedures and recording requirements;
 4. Maintenance requirements and schedules;
 5. Compliance limits and boundaries;
 6. Reporting requirements;
 7. Septic Inspector notification requirements for noncompliant conditions;

8. Valid contract between the owner and a licensed maintenance business;
9. Disclosure, location, and condition of acceptable soil treatment and dispersal system site; and
10. Descriptions of acceptable and prohibited discharges.

H. PERMIT EXPIRATION AND RENEWAL.

1. Operating permits shall be valid for a specific term stated on the permit as determined by the Septic Inspector.
2. An operating permit must be renewed prior to its expiration. If not renewed, the Septic Inspector may require the system to be removed from service or operated as a holding tank until which time the permit is renewed. If not renewed within 60 calendar days of the expiration date, the Septic Inspector may require that the system be abandoned.
3. The Septic Inspector shall notify the holder of an operating permit of the permit renewal requirement at least 90 calendar days prior to expiration of the permit. The owner must apply for renewal at least 30 calendar days before the permit expiration date.
4. Application for permit renewal shall be made on a form provided by the Town including:
 - a. The names, addresses, and telephone numbers of the applicant and permittee;
 - b. Reference number of previous operating permit;
 - c. Any outstanding compliance monitoring reports as required by the operating permit;
 - d. Certified treatment system inspection signed and/or sealed by a certified designer, maintenance contractor, or operator at the discretion of the Septic Inspector;
 - e. Any revisions made to the operation and maintenance manual; and
 - f. Any applicable fees.

- I. **PERMIT NOT TRANSFERABLE.** The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with section 7.04 of this Chapter. The Septic Inspector shall not terminate the current permit until 60 calendar days after the date of sale unless an imminent threat to public health and safety exists. To consider the new owner's application, the Septic Inspector may require a performance inspection of the treatment system certified by a licensed inspector or qualified employee.
- J. **COMPLIANCE MONITORING.**
 1. Performance monitoring of a SSTS shall be performed by a licensed inspection business or licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.
 2. A monitoring report shall be prepared and certified by the licensed inspection business or licensed service provider. The report shall be submitted to the Septic Inspector on or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of the maintenance and servicing activities performed since the last compliance monitoring report as described below:
 - a. Owner name and address;
 - b. Operating permit number;
 - c. Average daily flow since last compliance monitoring report;
 - d. Description of type of maintenance and date performed;
 - e. Description of sample taken (if required), analytical laboratory used, and results of analyses;
 - f. Problems noted with the system and actions proposed or taken to correct them; and
 - g. Name, signature, license and license number of the licensed professional who performed the work.

7.05 DUTY TO COMPLY WITH PERMIT CONDITIONS.

The permittee shall comply with all conditions stated in any permit issued by the Septic Inspector under this Chapter. Failure of the permittee to do so is a violation of this Chapter and is subject to the penalties provided herein.

7.06 SYSTEMS NOT OPERATED UNDER MANAGEMENT PLAN.

Owners of SSTS that are not operated under a management plan or operating permit must inspect treatment tanks and remove solids if needed every three years. Solids must be removed when their accumulation meets the limit described in Minn. R. 7080.2450.

SECTION 8.00 ABANDONMENT CERTIFICATION**8.01 PURPOSE.**

The purpose of the system abandonment certification is to ensure that a treatment system no longer in service is abandoned following decommissioning and in a manner that protects public health, safety, and water quality. It also terminates all permits associated with the system.

8.02 ABANDONMENT REQUIREMENTS.

- A. Whenever the use of a SSTS or any system component is discontinued as the result of a system repair, modification, replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose is prohibited.
- B. Abandonment shall be completed in accordance with Minn. R. 7080.2500.
- C. An abandonment certificate shall be submitted to the Septic Inspector. The report shall include:
 - 1. Owner's name and contact information;
 - 2. Property address;
 - 3. System construction permit and operating permit;
 - 4. The reason(s) for abandonment; and
 - 5. A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals.

SECTION 9.00 COMPLIANCE MANAGEMENT**9.01 COMPLIANCE INSPECTION PROGRAM.**

- A. **INSPECTOR RESPONSIBILITY.** It is the responsibility of the Septic Inspector, or its agent, to perform various SSTS compliance inspections periodically to assure that the requirements of this Chapter are met.
1. SSTS compliance inspections must be performed:
 - a. To ensure compliance with applicable requirements;
 - b. For all new SSTS construction or replacement; and
 - c. For an evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure statement if conducted by a party who is not the SSTS owner. Such an inspection constitutes a compliance inspection and shall be conducted in accordance with Minn. R. 7082.0700 using the SSTS inspection report forms provided by the MPCA.
 2. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.
 3. The Septic Inspector shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, "property" does not include a residence or private building.
 4. No person shall hinder or otherwise interfere with the Septic Inspector's employees or agents in the performance of their duties and responsibilities pursuant to this Chapter. Refusal to allow reasonable access to the property by the Septic Inspector or its agent shall be deemed a violation of this Chapter.
- B. **NEW CONSTRUCTION OR REPLACEMENT.**
1. Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minn. R. chs. 7080 or 7081. SSTS found not to be in compliance with Minn. R. 7080.1500, subp. 4(A) or Minn. R. 7081.0080, subp. 3 must be repaired or replaced within 10 months or as directed under Minn. Stat. ch. 145A. SSTS that are determined to have operation or monitoring deficiencies must immediately be maintained, monitored or otherwise managed according to the operating permit. SSTS found to be noncompliant

with other applicable requirements must be repaired or replaced according to the Septic Inspector's requirements.

2. It is the responsibility of the SSTS owner or the owner's agent to notify the Septic Inspector at least one working day prior to any permitted work on the SSTS.
3. A certificate of compliance for new SSTS construction or replacement shall be issued by the Septic Inspector if the Septic Inspector has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit.
4. The certificate of compliance must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the Chapter requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner that includes a statement specifying those chapters' provisions with which the SSTS does not comply.
5. The certificate of compliance or notice of noncompliance must be submitted to the Septic Inspector no later than 15 calendar days after the date the inspection was performed. The Septic Inspector shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within 15 calendar days of receipt from the certified inspector. No SSTS shall be placed into operation until a valid certificate of compliance has been issued.
6. Certificates of compliance for new construction or replacement shall remain valid for five years from the date of issue unless the Septic Inspector finds evidence of an imminent threat to public health or safety requiring removal and abatement under Minn. Stat. §145A.04, subd. 8.

C. EXISTING SYSTEMS.

1. Compliance inspections shall be required when any of the following conditions occur:
 - a. When a construction permit is required to repair, modify, or upgrade an existing system;

- b. Anytime there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system;
 - c. Anytime there is a change in the use of the property being served by an existing SSTS which may impact the performance of the system;
 - d. When an operating permit is to be renewed;
 - e. Prior to the sale or transfer of real property served by an existing SSTS if required by section 9.02(D)(1)(a) below;
 - f. During systematic shoreland or area-wide SSTS surveys by the Septic Inspector; and
 - g. At any time as required by this Chapter or as the Septic Inspector deems appropriate such as upon receipt of a complaint or other notice of system malfunction.
2. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by the MPCA. An inspection for existing SSTS must verify the conditions in sub items (a) to (c).
- a. Sewage tanks must be assessed for leakage below the operating depth. A leakage report must be completed that includes the method(s) used to make the assessment. The assessment must be made by either a licensed SSTS business (except a design business) or a qualified employee with an SSTS certification (except as a designer). A passing report is valid for three years unless the certified individual has reason to believe that a new inspection is to be conducted and the tank is found not to be watertight.
 - b. The vertical separation distance from the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock. This verification must be achieved by either conducting soil borings or by prior verifications by two independent parties. The soil borings used for system design or previous inspections qualifies as a verification. A vertical separation distance report must be completed that includes the method(s) used to make the assessment and includes any previous soil borings. The assessment must be made by either a licensed inspection business or a qualified employee of the Septic Inspector. If the verification separation report consists of verifications by two independent parties, a

subsequent verification is not required unless the inspector has reason to believe a noncompliant condition exists.

If a documented discrepancy arises on the depth of the periodically saturated soil between licensed businesses for SSTS design or compliance purposes, all disputing parties must follow the dispute resolution procedure described in Minn. R. 7082.0700, subp. 5.

- c. Sewage backup, surface seeping or surface discharge from the system must be determined. A hydraulic function report must be completed that includes the method(s) used to make the assessment. The assessment must be made by either a licensed inspection business or a qualified employee with an inspector certification. A passing report is valid until a new inspection is requested or if the hydraulic performance is believed to have changed.
3. A certificate of compliance shall be based on the results of the verifications in section 9.02(C)(2). The certificate of compliance must include a certified statement by a qualified employee or a licensed inspection business, authorized by the Septic Inspector, whether the SSTS is in compliance with the Chapter requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those Chapter provisions with which the SSTS does not comply. A construction permit application must be submitted to the Septic Inspector if the required corrective action is not a minor repair.
4. The certificate of compliance or notice of noncompliance must be submitted to the Septic Inspector no later than 15 calendar days after the date the inspection was performed. The Septic Inspector shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within 15 calendar days of receipt from the licensed inspection business.
5. Certificates of compliance for existing SSTS shall remain valid for three years from the date of issue unless the Septic Inspector finds evidence of an imminent threat to public safety requiring removal and abatement under Minn. Stat. § 145A.04, subd. 8.
6. The Septic Inspector may waive a compliance inspection required by section 9.02(C)(1) if:
 - a. The owner of the real property served by an existing SSTS acknowledges in writing to the Septic Inspector that the

existing SSTS is failing and shall be upgraded, repaired, replaced or abandoned in accordance with this Chapter within 10 months; or

- b. The owner of the real property served by an existing SSTS acknowledges in writing to the Septic Inspector that the existing SSTS is an imminent threat to public health or safety and shall be upgraded, repaired, replaced or abandoned in accordance with this Chapter within 30 days.

D. PROPERTY TRANSFER/SALE REQUIREMENTS.

1. No owner or other person acting with legal authority on behalf of an owner of real property served by an existing SSTS shall sell or transfer to another party said real property unless the following requirements are met:
 - a. A compliance inspection has been performed and a certificate of compliance has been issued for the SSTS within three years if the SSTS is older than five years or within five years if the SSTS is less than five years old prior to the intended date of sale or transfer of the real property, unless evidence is found identifying an imminent threat to public health and safety. If this requirement cannot be met, a compliance inspection must be conducted in accordance with section 9.02(C) above.
 - b. The compliance inspection must have been performed by a qualified employee of the Septic Inspector or a licensed inspection business following the procedures described in section 9.02(C) above.
 - c. The seller/transferor of the real property must provide the disclosure required by Minn. Stat. § 115.55, subd. 6.
 - d. If the seller/transferor fails to provide a certificate of compliance, the seller/transferor shall provide the buyer/transferee sufficient security in the form of an escrow agreement to assure the installation of a complying SSTS. The security shall be placed in an escrow with a licensed real estate closer, licensed attorney, or federal or state chartered financial institution. The amount escrowed shall be equal to 125% of a written estimate to install a complying SSTS provided by a licensed and certified installer, or the amount escrowed shall be equal to 110% of the written contract price for the installation of a complying SSTS provided by a licensed

and certified installer. After a complying SSTS has been installed and a certificate of compliance issued, the seller/transferor or the buyer/transferee shall provide the escrow agent a copy of the certificate of compliance.

2. The compliance portion of the certificate of compliance need not be completed if the sale or transfer involves the following circumstances:
 - a. The affected real property is without buildings or contains no dwellings or other buildings with plumbing fixtures.
 - b. The transfer is a tax forfeiture.
 - c. The sale or transfer completes a contract for deed or purchase agreement entered into prior to the effective date of this Chapter. This subsection applies only to the original vendor and vendee on such contract.
3. All real property sales or transfers subject to this Chapter occurring during the period between November 15th and April 15th when SSTS compliance cannot be determined due to frozen soil conditions shall require a winter agreement, which includes an application for an SSTS permit and an agreement to complete a compliance inspection by the following June 1st by a licensed inspection business. If upon inspection the SSTS is found to be in compliance, the permit fee will be refunded. If upon inspection the system is found to be noncompliant, an escrow agreement must be established in accordance with section 9.02(D)(1)(d) above and the system upgraded.
4. The responsibility for filing the completed compliance portion of the certificate of compliance under section 9.02(D)(1) above or for upgrading a system found to be noncompliant shall be determined by the seller/transferor and the buyer/transferee. The seller/transferor and the buyer/transferee shall provide the Septic Inspector with a signed statement indicating responsibility for completing the compliance portion of the certificate of compliance and for upgrading a system found to be noncompliant.
5. The issuance of permits, certificates of compliance or notices of noncompliance as requested or issued shall not be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or noncompliance with the provisions of this Chapter.

- E. **CONFLICT OF INTEREST.** A licensed inspection business that inspects an existing SSTS is allowed to subsequently design and install a new SSTS for that property provided the inspection business is also licensed to design and install. A licensed inspection business working on behalf of the Septic Inspector must not design or install a system if there is likelihood that the inspector or business will be responsible for permitting or inspecting the system or system site. A person working for or on behalf of a municipality shall not use the person's position to solicit for private business gain.

SECTION 10.00 VARIANCES

10.01 VARIANCES ALLOWED.

With the exception of section 10.02 below, in any case where it appears that, by reason of exceptional circumstances, the strict enforcement of any provision of the standards would be unreasonable, impractical or not feasible under the circumstances in order to promote the effective and reasonable application and enforcement of the provisions of this Chapter, the Town Board may permit a variance upon such conditions as it may prescribe consistent with the general purposes of this Chapter and the intent of this and all other applicable state and local ordinances.

10.02 PROHIBITED VARIANCES.

The Town Board may not grant variances from the following standards:

- A. Minn. R. 7080.2150, subp. 2.
- B. Minn. R. 7081.0080, subps. 2 to 5; however, variances may be granted to Minn. R. 7081.0080, subp. 4(D)(1) for the replacement of MSTs serving existing dwellings or other establishments.
- C. Flow determinations under Minn. R. 7081.0110 if the deviation reduces the average daily flow from more than 10,000 gallons to 10,000 gallons per day or less.

10.03 PROCEDURE FOR REQUESTING VARIANCE.

- A. **APPLICATION FOR VARIANCE.** A variance application shall be submitted by the property owner to the Septic Inspector on forms provided by the Town. Applicants shall provide all information as required for the administration of this Chapter.
- B. **CONTENTS OF VARIANCE APPLICATION.** The variance application shall include development plans and specifications and such other information

as may be required by other sections of this Chapter or by the Septic Inspector. The application shall also include:

1. The legal description of the real property on which the system will be located;
 2. The names, addresses and telephone numbers of the owners of the property or any person having a legal interest therein;
 3. A site plan showing all pertinent dimensions, buildings, structures and significant natural features having an influence on the variance;
 4. Copies of any required municipal, county, state, or federal permits or approvals;
 5. A statement identifying the specific provision(s) in the Chapter from which the variance is requested;
 6. The reasons why compliance with the provision(s) is difficult or inappropriate;
 7. The alternative measures that will be taken to ensure a comparable degree of compliance with the intention of the applicable provision(s);
 8. The length of time for which the variance is requested;
 9. Cost considerations; and
 10. Other relevant information requested by the Septic Inspector as necessary to properly evaluate the variance request.
- C. APPLICATION FEE. The application fee shall accompany the initial application for a variance request.
- D. SITE INVESTIGATION. Upon receipt of the variance application, the Septic Inspector shall decide if a site investigation is necessary. After the necessary information has been gathered, the Septic Inspector shall make a written recommendation to approve or deny the variance to the Town Board.
- E. NOTIFICATION. Written notice of the variance application shall be sent to property owners of record within 500 feet of the affected property. The written notice shall be given not less than 14 days prior to the date of the meeting at which the variance application will be considered by the Town

Board. The failure of any person to receive such notification shall not invalidate the proceedings.

- F. FACTORS REQUIRED FOR APPROVAL. The variance may be granted provided that:
1. The circumstances alleged to create the need for a variance are unique to the property and were not caused by the action of the applicant;
 2. The granting of the variance will not be contrary to the public interest or damaging to the rights of another person or to property values in the vicinity;
 3. The granting of the variance would not allow a prohibited use; and
 4. The granting of the variance would be in accordance with the intent and purpose of this Chapter and Minn. R. chs. 7080, 7081, and 7082.
- G. CONDITIONS. The Town Board may impose conditions in granting the variance to ensure compliance and to protect the public health, safety, or welfare. Each violation of any condition set forth in the variance shall be a separate violation of this Chapter subject to enforcement and shall be sufficient grounds for terminating the variance.
- H. DENIAL OF VARIANCE. No application for a variance which has been denied wholly or in part shall be resubmitted for a period of six months from the date of said denial, except on the grounds of relevant new evidence or proof of a significant change of conditions.
- I. APPEAL. Any person aggrieved by the decision of the Town Board may appeal the decision to any court with appropriate jurisdiction.

SECTION 11.00 VIOLATIONS

For violations of this Chapter, the Town may take the following actions: issuance of a warning notice; issuance of a notice of violation, issuance of a citation or complaint; issuance of a cease and desist order; abatement; suspension, summary suspension or revocation of a permit issued under this Chapter; execution of a stipulation agreement; and/or commencement of other civil proceedings.

11.01 WARNING NOTICE.

The Septic Inspector may issue a warning notice to any person alleged to have committed a violation of this Chapter. A warning notice shall serve to place the person on notice that compliance with specified requirements must occur to avoid additional enforcement actions. Service of the warning notice shall be made by first class mail or by personal service. The warning notice shall contain:

- A. A list of violations, including the Chapter's section(s), rule(s), or statute(s) violated, the factual basis for the violations and the date(s) of the violations.
- B. The specific actions required to be taken by the person to correct the violations and the timeframes within which the corrections are required to be made.
- C. A general description of the additional administrative and judicial enforcement actions that could be pursued by the Town if the alleged violations are not satisfactorily corrected.

11.02 NOTICE OF VIOLATION (NOV).

The Septic Inspector may issue a notice of violation (NOV) to any person alleged to have committed a violation of this Chapter. A NOV shall serve to place the person on notice that compliance with specified Chapter requirements must occur to avoid additional enforcement actions. Service of the NOV shall be made by certified mail or by personal service. The notice of violation shall contain:

- A. Findings of fact with corresponding conclusions of law, which describe the alleged violations and the corresponding section(s), statute(s), and/or rule(s) which are allegedly violated.
- B. Orders for corrective actions, which describe specifically how each alleged violation must be corrected and the timeframes within which the corrections are required to be made.

- C. Notice of further action, which describes in general terms, the additional administrative and judicial enforcement actions that could be pursued by the Town if the alleged violations are not satisfactorily corrected.

11.03 CITATIONS.

Any person who fails to comply with the provisions of this Chapter is guilty of a misdemeanor and upon conviction thereof shall be punished as provided by law. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

An authorized representative of the Septic Inspector shall have the power to issue citations for violations of this Chapter, but shall not be permitted to physically arrest or take into custody any violator.

- A. Issuance of the Citation. Citations shall be issued to the person alleged to have committed the violation (alleged violator) either by personal service or by certified mail. In the case of a public, private, or municipal corporation, the citation shall be issued to any officer or agent with express or implied authorization to accept such issuance.
- B. Notice of Citation. Citations shall be made out in quadruplicate (4). One copy shall be issued to the alleged violator; one copy shall be filed with the Septic Inspector; one copy shall be filed with the Town Clerk; and one copy shall be filed with the Dakota County District Court.
- C. Form of Citation. Citations shall be on such form(s) as approved by the Town and shall contain at least the following:
 - 1. The name and address of the alleged violator and when known, the owner or person in charge of the premises at which the violation occurred;
 - 2. The date, time (if known) and place of violation;
 - 3. A short description of the violation followed by reference to the section of this Chapter violated;
 - 4. The name of the person issuing the citation;
 - 5. The date, time, and place at which the alleged violator shall appear in court and notice that if such person does not appear a warrant may be issued for such person's arrest; and
 - 6. Such other information as the court may specify.

11.04 ABATEMENT.

If a SSTS constitutes a public health nuisance, the Town may enter the property and abate the nuisance and recover the costs of the same from the property owner through the following procedures:

- A. **ABATEMENT NOTICE.** The Septic Inspector shall serve an abatement notice on the property owner or occupant.
 - 1. **Contents of Abatement Notice.** An abatement notice shall include the following:
 - a. Notice that there is a SSTS located on the property and that it constitutes a public health nuisance.
 - b. Notice that the property owner must abate the public health nuisance within a specified time period not to exceed 10 calendar days in order to avoid any liability for the costs of inspection and abatement that the Town may incur.
 - c. Notice that if the property owner fails to abate the public health nuisance within the specified timeframe, the Town or its agent intends to enter the property and commence abatement of the public health nuisance and assess the costs of inspection and abatement against the real property on which the nuisance is located.
 - 2. **Service.** The abatement notice must be served on a property owner by certified mail or personal service. Service by certified mail shall be deemed complete upon mailing. If the property owner is unknown or absent and has no known representative upon whom notice can be served, the Septic Inspector shall post a written or printed notice on the property stating that, unless the public health nuisance is abated within a period not longer than 10 days, the Town Board will have the nuisance abated at the expense of the owner.
- B. **ABATEMENT BY THE TOWN.** In the event a property owner does not abate the public health nuisance, the Town Board may authorize the expenditure of funds necessary to abate the nuisance.
- C. **ASSESSMENT OF ABATEMENT COSTS.**
 - 1. The costs of an enforcement action under this section may be assessed and charged against the real property on which the public health nuisance was located.

2. The Town Clerk shall keep a record of the enforcement and abatement costs and report all work done for which assessments are to be made, stating and certifying the description of the real property, lots or parcels involved and the amount assessable to each. Prior to the annual deadline specified by the County Auditor for the certification of unpaid special charges, the Town Clerk shall prepare an assessment roll of such charges for consideration and adoption by the Town Board in accordance with Minn. Stat. § 429.061, 429.071, 429.081, and 429.101.
3. The assessment roll adopted and levied by the Town Board shall be submitted to the County Auditor, who shall extend the cost so assessed and charged on the tax roll of the Town against the real property on which the enforcement action was taken.

11.05 CEASE AND DESIST ORDERS.

Cease and desist orders may be issued when the Septic Inspector has probable cause that an activity regulated by this or any other Township Code of Ordinances is being or has been conducted without a permit or in violation of a permit. When work has been stopped by a cease and desist order, it shall not be resumed until the reason for the work stoppage has been completely satisfied, any administrative fees paid, and the cease and desist order lifted.

11.06 STIPULATION AGREEMENT.

The Septic Inspector and a person alleged to have violated provisions of this Chapter may voluntarily enter into a stipulation agreement whereby the parties to the agreement: a) identify conditions on the property that require corrective action; b) agree on the corrective actions that must be performed by the person; and c) agree on the timeframes in which the corrective actions must be completed. If the person fails to fulfill the requirements of the agreement, the Town Board may seek compliance with the terms of the agreement through a court of competent jurisdiction or pursue other enforcement action allowed by this Chapter.

11.07 SUSPENSION AND REVOCATION OF PERMIT.

The Septic Inspector may suspend or revoke a permit for violations of this Chapter in accordance with section 12.00 below. The Septic Inspector may issue a summary suspension of a permit for violations of this Chapter in accordance with section 12.02 below.

11.08 COMMENCEMENT OF CIVIL COURT ACTION.

In the event of a violation or threat of violation of this Chapter, the Town Board may institute appropriate civil actions or proceedings in any court of competent jurisdiction requesting injunctive relief to prevent, restrain, correct or abate such violations or threatened violations. The Town may recover all costs, including reasonable attorney's fees, incurred for enforcement of this Chapter.

SECTION 12.00 PERMIT SUSPENSION AND REVOCATION

12.01 SUSPENSION.

- A. Any permit required under this Chapter may be suspended by the Septic Inspector for violation of any provision of this Chapter. Upon written notice to the permittee, said permit may be suspended by the Septic Inspector for a period not longer than 60 days or until the violation is corrected, whichever is shorter.
- B. Such suspension shall not occur earlier than 10 working days after written notice of suspension has been served on the permittee, or if a hearing is requested, until written notice of the Town Board action has been served on the permittee. Notice to the permittee shall be made by personal service or by certified mail to the address designated in the permit application. Service by certified mail shall be deemed complete upon mailing. Such written notice of suspension shall contain the effective date of the suspension, the nature of the violation(s) constituting the basis for the suspension, the facts which support the conclusion that the violation(s) occurred, and a statement that if the permittee desires to appeal, the permittee must file a written request for an appeal hearing with the Town Clerk within 10 working days of the service of the suspension notice, exclusive of the day of service. The appeal hearing request shall state the grounds for appeal and be served on the Town Clerk by personal service or certified mail with a copy to the Septic Inspector. Following timely service of a request for hearing, the Town Board shall set a time and place for the hearing pursuant to section 13.00.
- C. If said suspension is upheld and the permittee has not demonstrated compliance with the terms of the Chapter within the 60 day time period, the Septic Inspector may serve notice of continued suspension for up to an additional 60 days or initiate revocation procedures.

12.02 SUMMARY SUSPENSION.

- A. If the Septic Inspector finds that an imminent threat to the environment or to public health, safety or welfare requires emergency action and incorporates a finding to that effect in its order, summary suspension of a permit may be ordered by the Septic Inspector. Written notice of such

summary suspension shall be made by personal service or by certified mail on the permittee at the address designated in the permit application. Service by certified mail shall be deemed complete upon mailing. Alternatively, the Septic Inspector may post copies of the notice of summary suspension of the permit on the property for which the permit was issued. Said posting shall constitute the notice required under this section.

- B. The written notice shall state the effective date of the summary suspension, the nature of the violation(s) requiring emergency action, the facts which support the conclusion that the violation(s) occurred and a statement that if the permittee desires to appeal, the permittee must file a written request for an appeal hearing with the Town Clerk within 10 working days of service or posting of the suspension notice, excluding the day of service. The appeal hearing request shall state the grounds for appeal and be served on the Town Clerk by personal service or by certified mail, with a copy to the Septic Inspector. Following timely service of a request for a hearing, the Town Board shall set a time and place for the hearing pursuant to section 13.00.
- C. The summary suspension shall not be stayed pending an appeal to the Town Board or an informal review by the Septic Inspector, but shall be subject to dismissal upon a favorable re-inspection by the Septic Inspector or favorable appeal to the Town Board.

12.03 SUSPENSION RE-INSPECTIONS.

Upon written notification from the permittee that all violations for which a suspension or summary suspension was invoked have been corrected, the Septic Inspector shall re-inspect the system, device, site or activity within a reasonable length of time, but in no case more than three working days after receipt of the notice from the permittee. If the Septic Inspector finds upon re-inspection that the violations constituting the grounds for the suspension have been corrected or removed, the Septic Inspector shall immediately dismiss the suspension by written notice to the permittee, served personally or by certified mail on the permittee at the address designated in the permutation application, with a copy to the Town Clerk.

12.04 REVOCATION.

- A. Any permit granted pursuant to this Chapter may be revoked by the Septic Inspector for violation of any provision of this Chapter.
- B. Revocation shall not occur earlier than 10 working days from the time that written notice of revocation from the Septic Inspector is served on the permittee, or if a hearing is requested, until written notice of the Town

Board's action has been served on the permittee. The notice of revocation to the permittee shall be made by personal service or by certified mail to the address designated in the permit application. Service by certified mail shall be deemed complete upon mailing. Such written notice of revocation shall contain the effective date of the revocation, the nature of the violation(s) constituting the basis for the revocation, the facts which support the conclusion that the violation(s) occurred and a statement that if the permittee desires to appeal, the permittee must file a request for an appeal hearing with the Town Clerk within 10 working days of service of the revocation notice, exclusive of the day of service. Following timely service of a request for a hearing, the Town Board shall set a time and a place for the hearing to be held pursuant to section 13.00.

SECTION 13.00 HEARINGS

Hearings requested under this Chapter shall be held before the Town Board, or a hearing examiner as provided below, and shall be open to the public.

- A. **TIMEFRAME FOR HEARING.** Unless an extension of time is requested by the appellant in writing directed to the chair of the Town Board and is granted, the hearing will be held no later than 45 calendar days after the date of service of request for a hearing, exclusive of the date of such service. In any event, such hearing shall be held no later than 90 calendar days after the date of service of request for a hearing, exclusive of the date of such service.
- B. **NOTICE OF HEARING.** The Town Clerk shall mail notice of the hearing to the appellant, with a copy to the Septic Inspector, at least 15 working days prior to the hearing. Such notice shall include:
 - 1. A statement of time, place, and nature of the hearing.
 - 2. A reference to the particular section of the chapter and rules involved.
- C. **HEARING EXAMINER.** The Town Board may by resolution appoint an individual, to be known as the hearing examiner, to conduct the hearing and to make findings of fact, conclusions and recommendations to the Town Board. The hearing examiner shall submit the findings of fact, conclusions and recommendations to the Town Board in a written report and the Town Board may adopt, modify or reject the report.
- D. **CONDUCT OF THE HEARING.** The appellant may be represented by counsel. The Septic Inspector, the appellant, and additional parties, as determined by the Town Board or hearing examiner, in that order, shall

present evidence. All parties shall have full opportunity to respond to and present evidence, cross-examine witnesses, and present argument. The Town Board or hearing examiner may also examine witnesses.

- E. **BURDEN OF PROOF.** The Septic Inspector shall have the burden of proving its position by a preponderance of the evidence, unless a different burden is provided by substantive law. All findings of fact, conclusions, and decisions by the Town Board shall be based on evidence presented and matters officially noticed.
- F. **ADMISSION OF EVIDENCE.** All evidence that possesses probative value, including hearsay, may be admitted if it is the type of evidence on which prudent persons are accustomed to rely in the conduct of their serious affairs. Evidence that is incompetent, irrelevant, immaterial or unduly repetitious may be excluded. The hearing shall be confined to matters raised in the Septic Inspector's written notice of suspension, summary suspension, revocation, or denial of a permit, or in the written request for a hearing.
- G. **PRE-HEARING CONFERENCE.** At the written request of any party, or upon motion of the Town Board or hearing examiner, a pre-hearing conference shall be held. The pre-hearing conference shall be conducted by the hearing examiner, if the Town Board has chosen to use one, or by a designated representative of the Town Board. The pre-hearing conference shall be held no later than five working days before the hearing. The purpose of the pre-hearing conference is to:
 - 1. Clarify the issues to be determined at the hearing.
 - 2. Provide an opportunity for discovery of all relevant documentary, photographic or other demonstrative evidence in the possession of each party. The hearing examiner or Town Board's representative may require each party to supply a reasonable number of copies of relevant evidence capable of reproduction
 - 3. Provide an opportunity for discovery of the full name and address of all witnesses who will be called at the hearing and a brief description of the facts and opinions to which each is expected to testify. If the names and addresses are not known, the party shall describe them thoroughly by job duties and involvement with the facts at issue.

4. If a pre-hearing conference is held, evidence not divulged as provided above shall be excluded at the hearing unless the party advancing the evidence took all reasonable steps to divulge it to the adverse party prior to the hearing and:
 - a. The evidence was not known to the party at the time of the pre-hearing conference; or
 - b. The evidence is in rebuttal to matters raised for the first time at or subsequent to the pre-hearing conference.
- H. **FAILURE TO APPEAR.** If the appellant fails to appear at the hearing, appellant shall forfeit any right to a hearing before the Town Board or hearing examiner. Appellant's failure to appear shall also be deemed as a waiver of appellant's right to appeal the Septic Inspector's decision and the decision shall stand.
- I. **APPEAL OF TOWN BOARD DECISION.** Any person aggrieved by the decision of the Town Board may appeal that decision to any court with appropriate jurisdiction.

SECTION 14.00 RECORD KEEPING AND ANNUAL REPORT

14.01 RECORD KEEPING.

The Septic Inspector shall maintain a current record of all permitted systems. The record shall contain all permit applications, issued permits, fees assessed, variance requests, certificates of compliance, notices of noncompliance, enforcement proceedings, site evaluation reports, design reports, record drawings, management plans, maintenance reports, an annual list of all sewage tanks installed in the Township sorted by licensed installation businesses, and other records relevant to each system.

14.02 ANNUAL REPORT.

The Septic Inspector shall provide an annual report of SSTS permitting activities to the MPCA in accordance with the requirements set forth in Minn. R. 7082.0040, subp. 5.

SECTION 15.00 SEVERABILITY

If any section, clause, provision, or portion of this Chapter is adjudged unconstitutional or invalid by a court of law, the remainder of this Chapter shall not be affected and shall remain in full force.

SECTION 16.00 REMEDIES CUMULATIVE

No remedy set forth in this Chapter is intended to be exclusive but each such remedy shall be cumulative and in addition to other remedies now or hereafter existing at law or in equity. No delay in the exercise of any remedy for violation of this Chapter shall later impair or waive any such right or power of the Township.

ORDINANCE 5: LIVABILITY

CHAPTER 1: PARKS AND RECREATION184

CHAPTER 2: SCHOOLS, LIBRARIES AND OTHER PUBLIC BUILDINGS185

CHAPTER 3: OUTDOOR ASSEMBLIES186

CHAPTER 4: NUISANCE.....194

CHAPTER 5: OPEN BURNING199

ORDINANCE 5: LIVABILITY

Chapter 1: Parks and Recreation

This Chapter is enacted for the purpose of providing the Town Board with the authority to regulate the use, operation and protection of Township parks and other public recreation areas, open space and other public lands in the Township of Eureka as they presently exist or exist in the future.

Chapter 2: Schools, Libraries and other Public Buildings

Schools, Libraries and other Public Buildings must be constructed in accordance with all Township regulations.

Chapter 3: Outdoor Assemblies

Section 1 – PURPOSE AND INTENT

- A. It is the purpose of the Town Board of the Township of Eureka to regulate the assemblage of a large number of people, in excess of those normally needing the health, sanitary, fire, police, transportation and utility services regularly provided in the County of Dakota or in excess of those normally requiring supervision or control, in order that the health, safety, and welfare of all persons in the Township of Eureka residents and visitors alike, may be protected.
- B. It is the intent of the Town Board that all sections and provisions of this Chapter have an independent existence; and, should any section or provision be declared invalid or unconstitutional by a Court of competent jurisdiction, it is the intent of the Town Board that any section or provision so declared shall be severable from and shall not affect the validity of the remainder of the Chapter.

Section 2 - LICENSE REQUIRED

- A. No person shall permit, maintain, attend, promote, conduct, advertise, act as an entrepreneur, undertake, organize, manage, or sell or give tickets to an assembly, where a substantial portion of the entertainers or persons attending will be or are reasonably expected to be out of doors, whether on public or private property, and at which more than three hundred (300) persons are in attendance or are reasonably expected to be in attendance, or at which between one hundred (100) and three hundred (300) persons are in attendance or are reasonably expected to be in attendance for a period which continues or can reasonably be expected to continue for eight or more consecutive hours, unless a license to hold the assembly has first been issued by the Town Board, application for which must be made at least thirty (30) days in advance of the assembly. A license to hold an assembly issued to one person shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly. (Ordinance 2010-4)
- B. A separate license shall be required for each day and each location at which three hundred (300) people assemble or can reasonably be anticipated to assemble or at which between one hundred (100) and three hundred (300) people assemble or can reasonably be expected to assemble for a period which continues or which can reasonably be expected to continue for eight (8) or more consecutive hours. The fee for each license is set forth in Ordinance 7. (Ordinance 2010-4)

- C. A license shall permit the assembly of only the maximum number of people stated in the license. The licensee shall not sell tickets to nor permit to assemble at the license location more than the maximum permissible number of people.
- D. The license shall require that the holder take all reasonable measures to prevent the sound of the assembly from being audible over conversational levels on neighboring properties. (Ordinance 2010-4, 11-8-2010)
- E. This Chapter shall not apply to any regularly established, permanent place of worship, stadium, athletic field, arena, auditorium, coliseum, or other similar permanently established place of assembly for assemblies which do not exceed by more than three hundred (300) people the maximum capacity of the structure where the assembly is held. (Ordinance 2010-4, 11-8-2010)
- F. No performance, exhibition, show, or meeting in connection with the licensed activity shall commence prior to 9:00 A.M. on all days of the week, or continue after 9:00 P.M. on Sundays through Thursdays, or after 10:30 P.M. on Fridays and Saturdays. (Ordinance 2010-4, 11-8-2010)
- G. This Chapter shall not apply to government-sponsored fairs held on regularly established fairgrounds, nor to assemblies required to be licensed by other laws and/or regulations of the Township of Eureka, the County of Dakota, or the State of Minnesota.

Section 3 - CONDITIONS FOR ISSUING LICENSE

Before a license is issued, the applicant shall first:

- A. Determine the maximum number of people which will be assembled or admitted to the location of the assembly, provided that the maximum number shall not exceed the maximum number which can reasonably assemble at the location of the assembly in consideration of the nature of the assembly and applicable fire and safety regulations, and provided that where the assembly is to continue overnight, the maximum number shall not be more than is allowed to sleep within the boundaries of the location of the assembly by the zoning or health regulations of the Township of Eureka or the County of Dakota, or regulation of the Minnesota State Department of Health. (Ordinance 2010-4, 11-8-2010)
- B. At the time the application is submitted, the sponsor will provide a plan, including the provisions herein, for operation of the assembly. Ten (10) days prior to the start of the assembly, local authorities will inspect to determine whether the requirements of the following provisions have been met:

1. A fence or barrier completely enclosing the proposed location of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the assembly grounds, which shall have sufficient entrances and exits to allow easy movement into and out of the assembly grounds and provide traffic control onto established public road systems; this requirement may be waived if the Town Board finds that a fence will not be necessary for crowd control.
2. Potable water, meeting all federal and state requirements for sanitary quality, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one gallon per person per day, and where the assembly is to continue for more than twelve (12) hours, water for bathing at the rate of at least ten (10) gallons per person per day, or portion of a day.
3. Separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled, in accordance with the Minnesota State Board of Health regulations and standards.
4. A sanitary method of disposing of solid wastes, in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least 2.5 pounds of solid waste per person per day, together with a plan for holding and collecting all such waste at least once each day of the assembly, and sufficient trash containers and personnel to perform the abovementioned tasks.
5. Food and beverage stands, if any, will be operated in compliance with the Minnesota Food Code, as evidenced by a current license issued by the Minnesota Department of Health. (Ordinance 2010-4, 11-8-2010)
6. At least two Emergency Medical Technicians certified by the State of Minnesota sufficient to provide medical care for each one thousand (1,000) people planned to attend, together with an emergency ambulance on the site, and an enclosed covered structure where treatment may be rendered, containing at least one Automatic External Defibrillator and at least two beds for each one thousand (1,000) people planned to attend. (Ordinance 2010-4, 11-8-2010)
7. If the assembly is to continue during the hours of darkness, illumination sufficient to light the entire area of the assembly at the

rate of at least five (5) foot candles, but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly.

8. A parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one parking space for every four persons. Adequate handicapped parking spaces shall be provided in accordance with applicable Minnesota Rules. (Ordinance 2010-4, 11-8-2010)
9. Telephones connected to outside lines sufficient to provide service to the maximum number of people to be assembled at the rate of one separate line and receiver for each five thousand (5000) persons, and a separate outside line or mobile telephone unit available for emergency use at all times. (Ordinance 2010-4, 11-8-2010)
10. If the assembly is to continue overnight, camping facilities in compliance with all state and local requirements as set forth in Minnesota Statutes, and the regulations of the Township of Eureka or the County of Dakota sufficient to provide camping accommodations for the maximum number of people to be assembled. All persons sleeping during night hours shall so sleep only in a tent, camper, trailer, mobile home, building, or similarly enclosed structure.
11. Security, traffic, and narcotics control plan which will meet the requirements of local authorities and the Minnesota Department of Public Safety; regularly employed off duty Minnesota law enforcement officers or protective agents licensed in Minnesota sufficient to provide adequate security for the maximum number of people to be assembled; and at least one security guard for the first two hundred (200) people, and an additional security guard for every one hundred (100) people over two hundred (200). The Dakota County Sheriff may recommend that security staffing requirements be adjusted based upon the applicant's assemblage license history. (Ordinance 2010-4, 11-8-2010)
12. Fire protection shall be provided by the sponsor which may include but not be limited to the following: fire alarms, extinguishing devices, fire lanes, and shall be sufficient to meet all applicable state laws and local regulations which are in effect, or may be set forth by the Town Board as it determines is necessary; and sufficient emergency personnel to efficiently operate the required equipment that will be provided by the sponsor.

13. All reasonably necessary precautions to ensure that the sound of the assembly will not be audible over conversational levels on neighboring properties. (Ordinance 2010-4, 11-8-2010)
14. Administrative control center with telephones where the local authorities can contact the sponsors and law enforcement personnel inside the assembly area.
15. The licensee shall obtain commercial general liability insurance covering all injuries or damage caused by or as a result of the conduct of the assembly at a minimum of \$1,000,000.00 per occurrence for bodily injury, death, or property damage. The policy shall name the Town of Eureka as an additional insured. (Ordinance 2010-4, 11-8-2010)

Section 4 - APPLICATION

- A. Application for a license to hold an actual or anticipated outdoor assembly as required by this Chapter shall be made in writing to the Town Board at least sixty (60) days in advance of such assembly. (Ordinance 2010-4, 11-8-2010)
- B. The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in the case of a corporation, by all partners in the case of a partnership, or by all officers of an unincorporated association, society or group, or, if there are no officers, by all members of such association, society or group.
- C. The application shall contain and disclose:
 1. The name, age, residence and mailing address of all persons required to sign the application by Section 4. A above and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, dates, residence and mailing address of each person holding ten percent (10%) or more of the stock of said corporation.
 2. The address and legal description of all property upon which the assembly is to be held, together with the name, residence and mailing address of the record owners of all such property.
 3. Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record

owners of all such property that the applicant has permission to use such property for an assembly.

4. The nature or purpose of the assembly.
 5. The total number of days and/or hours during which the assembly is to last.
 6. All documents, plans and other materials detailing the assembly plan, as required by Section 3 (B) of this Chapter. (Ordinance 2010-4, 11-8-2010)
 7. The maximum number of tickets to be sold, if any.
- D. The application shall include the bond and the license fee in accord with Ordinance 7. (Ordinance 2010-4, 11-8-2010)

Section 5 - ISSUANCE

The application for a license shall be processed within forty (40) days of receipt and shall be issued if all conditions are met. The Town may impose any additional conditions or restrictions upon the license, including on maximum capacity, necessary to protect the health, safety and welfare of the community and those in attendance. (Ordinance 2010-4, 11-8-2010)

Section 6 – REVOCATION

- A. A license granted under this Chapter may be revoked by the Town Board at any time prior to the assembly for:
1. Failure to comply with any conditions necessary for issuance of the license or contained in the license; or
 2. Violation of any other provision of this Chapter; or
 3. Discovery that information supplied in the license application or accompanying documentation is false or misleading.
- B. If during the course of the assembly it appears in the judgment of the Dakota County Sheriff that there exists an imminent danger of the outbreak of violence, riot or other calamity threatening the physical health or safety of those in attendance at the assembly or residents of the surrounding community, the Sheriff is authorized to take appropriate action to protect said persons, including temporarily suspending the assembly. Any such suspension by the Sheriff shall be effective immediately, and a hearing

thereon shall be held before the Town Board at the earliest opportunity. If the Town Board deems the suspension improper, the license shall be reinstated or the application fees returned, at the choice of the licensee. (Ordinance 2010-4, 11-8-2010)

Section 7 - OPERATION

- A. The licensee or his agents shall maintain the assembly premises and facilities in a clean, orderly and sanitary condition at all times.
- B. No animals, except household pets, shall be permitted in any of the grounds or facilities; and dogs, cats or other animals or pets shall not be permitted to run loose.
- C. No fires of any kind shall be permitted on the premises or in facilities, except in grills or at locations designated for that purpose.
- D. No person shall engage in any conduct that violates a state, county, or local law.
- E. A copy of the license shall be posted at all times in a conspicuous place in the area licensed for the assembly. (Ordinance 2010-4, 11-8-2010)

Section 8 - VARIANCE

The Town Board may, by majority resolution, grant a variance from the requirements of this Chapter in any particular case where the applicant can show that strict compliance with this Chapter would cause exceptional and undue hardship by reason of the special nature of the proposed assembly or by reason of the fact that the circumstances make the requirement of this Chapter unnecessary; provided that such variance may be granted without detriment to the public health, safety, or welfare and without impairing the intent and purpose of these regulations.

Section 9 – ENFORCEMENT

- A. The provisions of this Chapter may be enforced by injunction in any court of competent jurisdiction. (Ordinance 2010-4, 11-8-2010)
- B. The holding of an assembly in violation of any provision or condition contained in this Chapter or a license issued under this Chapter shall be deemed a public nuisance and may be abated as such. (Ordinance 2010-4, 11-8-2010)

- C. A violation of this Chapter is a misdemeanor, and a person or entity found guilty of violating this Chapter shall be subject to imprisonment of not more than ninety days and payment of a fine of not more than one thousand dollars. If a license is issued to an entity, the officers or members of said entity may be charged for violation of the Ordinances. Prosecution of violations as a misdemeanor does not preclude the Town from seeking other legal remedies relating to any violation. (Ordinance 2010-4, 11-8-2010)

- D. A person or entity violating a term of this Chapter or a condition stated within a license issued pursuant to this Chapter shall be liable in a civil action for any damages to private or public property arising out of or in connection with said violation. (Ordinance 2010-4, 11-8-2010)

Chapter 4: Nuisance

Section 1 - NUISANCE CHARACTERISTICS

No noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat glare, dust, or other such adverse influences shall be permitted in any district that will in any way have an objectionable effect upon adjacent or nearby property. All wastes in all districts shall be disposed of in a manner that is not dangerous to public health and safety, nor will damage public waste transmission of disposal facilities.

Section 2 - ODORS

Odors shall not be allowed to exceed the standards stated in the Minnesota State Air Pollution Control Regulations, Numbers 9 and 10.

Section 3 - TOXIC MATTER

All toxic matter emitted from a use shall conform to those standards set forth by the Minnesota State Air Pollution Control Regulations. In the event the toxic matter being considered is not specifically regulated by Minnesota State Air Pollution Control Regulations, the following standards and procedures shall be followed.

The measurement of toxic matter shall be at the lot boundary line and measured at ground level or habitable elevation, and shall be the average of any twenty-four (24) hour period. The release of any airborne toxic matter shall not exceed 1/30th of the Threshold Limit Values adopted by the American Conference of Governmental Industrial Hygienists. If a toxic substance is not contained in this listing, the applicant shall satisfy the governing body that the proposed levels will be safe to the general population.

Section 4 - EXHAUST EMISSION

No exhaust pipe, flue, chimney or whatever shall emit an emission that exceeds those standards set forth in Minnesota State Air Pollution Control Regulations, Numbers 1, 5, and 6.

Section 5 - LIGHTING

In all districts, any lighting used to illuminate a lot or structure (including signs) thereon shall be arranged so as to deflect light away from adjacent lots and streets. The source of light shall be hooded or shielded so as to prevent beams

or rays of light from being directed on any portion of adjoining properties or streets.
(Resolution 59, 8-13-2007)

Section 6 - NOISE

A. PURPOSE AND INTENT.

The Town wishes to protect the public health and the values of property within the Township by adopting standards and methods for addressing impulse noise and similar noise complaints that are not directly addressed by State sound-emission regulations. In doing so, the Town intends to use the Minnesota Pollution Control Agency's standards for sound emissions as a guideline, and adopt complementary standards that can be economically and objectively employed by law enforcement in response to noise complaints.

B. INCORPORATION OF STATE ENVIRONMENTAL NOISE AND VEHICLE NOISE STANDARDS.

The Town of Eureka hereby incorporates by reference the following sections of Minnesota Rules, as they may be amended or restated from time to time, as standards enforceable under this Chapter: 7030.0010 to 7030.0080 relating to noise pollution control;

7030.1000 to 7030.1060 relating to motor vehicle noise limits; and 6100.5700, subpart 5, relating to snowmobiles.

C. NIGHT NOISE NUISANCES.

The following are declared to be nuisances affecting public health, safety, and welfare:

1. **Domestic power equipment.** No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, power saw, drill, or other similar domestic power equipment between the hours of 10:00 p.m. and 7:00 a.m. Snow removal equipment is exempt from this provision.
2. **Construction activities.** No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment between the hours of 10:00 p.m. and 7:00 a.m.
3. **Radios, music devices, and similar items.** No person shall engage in or permit the operation of any radio, television, musical instrument, music device, public address system, or other device for producing or reproducing sound between the hours of 10:00 p.m. and 7:00 a.m. in a manner

so as to be plainly audible at the person's property line or at a distance of 50 feet, whichever is greater.

4. **Gatherings.** No person shall, between the hours of 10:00 p.m. and 7:00 a.m., conduct, permit, congregate at, participate in or be present at any party or gathering of people from which produces noise plainly audible at the property line of the property where the gathering is taking place, or at a distance of 50 feet whichever is greater. A peace officer may order all persons present in any such group or gathering from which such noise emanates, other than the owners or tenants of a dwelling unit on the property, to immediately disperse from said party in lieu of being charged under this Chapter. Refusal to disperse after such an order is a violation of this Chapter.

D. OTHER NOISE NUISANCES.

1. FINDINGS.

The MPCA noise standards "do not, by themselves, identify the limiting levels of impulsive noise needed for the preservation of public health and welfare." Minn. R. 7030.0040. Along with the categories of activities declared to be public nuisances in Section 3 of this Chapter, the Town Board establishes a guideline, based on the MPCA's sound pressure standard, for determination of public nuisance noise from sources not listed in this Chapter. The MPCA's standard for acceptable sound-pressure levels from non-vehicular sources, as measured on a residential property is:

	L-50	L-10
Day	60 dB(A)	65 dB(A)
Night	50 dB(A)	55 dB(A)

The Town Board also finds that there is a general scientific consensus that the human voice, in conversation with another person 1 meter away, is approximately 60 dB(A). The Town Board finds that the sound-pressure level of a "normal" conversation is a sufficiently efficient measurement guide to allow law enforcement to make a, prima facie determination of whether noise sources audible on a neighboring residential property constitutes a public nuisance.

2. DEFINITIONS.

Normal Conversation. Speech at a volume normally used to communicate with another person standing nearby (at 1 yard or less) without a conscious raising of voice.

Residential Property. Property with a primary use listed in the NAC-1 category in Minn. R. 7030.0050.

3. STANDARD.

a. No person shall make, cause to be made, or allow to be made sound that can be heard on a residential property:

i. which renders normal conversation inaudible at 1 yard between the hours of 7 AM and 10 PM; or

ii. at the same level as, or louder than normal conversation at 1 yard, between the hours of 10 PM and 7 AM.

b. The officer or enforcing official investigating a noise complaint must listen for the sound on a residential property and compare it to normal conversation at a distance of at least 100 feet from the suspected source of the sound.

c. In addition to the standard above, all persons using domestic power equipment, vehicles not licensed for travel on the roads, or other machinery or equipment with an engine shall use a muffler or other commercially available silencing device at all times while operating.

E. PERMITS FOR EXCEPTION

1. Applications for a permit for relief from the noise restrictions designated in this article on the basis of undue hardship may be made to the Township Clerk. A letter of request containing the basis for the request and standard permit application fee must accompany each application. The application shall follow the same process used for general zoning permits. The relief requested may be granted upon a good and sufficient showing that:

a. additional time is necessary for the applicant to alter or modify his activity or operation to comply with the provisions of this article;

b. the activity, operation, noise or vibration source will be of temporary duration and cannot reasonably be done in a manner that would comply with this article; or

c. no reasonable alternative is available to the applicant.

2. If granted, the permit shall be in writing and contain all conditions upon which such permit is granted, including, but not limited to, the effective dates, any time-of-day, location, sound-pressure-level, or equipment limitations. The Township may prescribe any reasonable conditions or requirements deemed

necessary to minimize adverse effects upon the community or the surrounding area.

3. In the event the Township denies an application for a permit for relief from the noise restrictions designated in this article, or grants relief under conditions the applicant finds unacceptable, the affected party may appeal the decision to the Board of Adjustments and Appeals by filing a written letter with the Township Clerk within ten (10) calendar days after receiving notice of the Township's decision. The appeal letter must specifically state each and every point of contention with the Township's determination. The appeal process shall follow that required by the Board of Adjustments and Appeals.

F. ENFORCEMENT.

Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor. As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof, and which is declared to be a public nuisance, may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Chapter 5: Regulating Open Burning and Authorizing a Service Charge for Certain Fire Calls

1. Purpose. The Town Board of Eureka Township finds that local regulation of open burning is necessary to reduce the incidence of hazardous and illegal fires within the Township and to safeguard the health and safety of the Town's citizens. The Board further finds that the costs attributable to fire calls from the Town's contract fire departments are increasing annually, and that recovery of fire call costs from those responsible for illegal or negligent fires is necessary to protect the Town's taxpayers.

2. Definitions.

"Burner" means a container approved by the Commissioner of the Minnesota Department of Natural Resources for the burning of vegetative material, around which the ground five feet from the base of the burner has been cleared of all combustible material.

"Campfire" means a fire set for cooking, warming, or ceremonial purposes, which is not more than three feet in diameter by three feet high, and has had the ground five feet from the base of the fire cleared of all combustible material.

"Fire Marshal" means the fire marshal of the fire department contractually responsible for responding to and investigating a fire, based upon the fire's location within the Township.

"Open Burning" means a fire burning in matter, whether concentrated or dispersed, which is not contained within a fully enclosed firebox, structure or vehicle and from which the smoke and other products of combustion are emitted directly to the open air without passing through a stack, duct or chimney.

"Snow-covered" means that the ground surrounding the immediate area of the fire has a continuous unbroken cover of snow, to a depth of three inches or more, sufficient to keep the fire from spreading.

3. Permit required. No person shall cause, allow or permit open burning within the Township without first obtaining a permit from the Fire Marshal responsible for the property on which the fire is intended to burn. The decision to approve or deny a request for an open burning permits lies in the professional judgment and sole discretion of the responsible Fire Marshal.

4. Exceptions. The following fires shall not require an open burning permit:

- a. Campfires, as defined above.
- b. Fires within a charcoal or gas grill, camp stove, or other device designed for the purpose of cooking.

- c. Fires started and maintained while the ground is snow-covered.
- d. Fires contained in a burner, between the hours of 6:00 P.M. and 8:00 A.M.

5. Prohibited materials in fires.

a. General. No person shall conduct, cause, or permit open burning of rubber, plastics, chemically treated materials, oil, or other materials which produce excessive or noxious smoke including, but not limited to, tires, railroad ties, chemically treated lumber, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint, or paint filters.

i. The Town Board, or another board of health exercising jurisdiction in the Township, may authorize burning one or more of the materials listed above after determining that doing so is necessary to abate a public health nuisance.

ii. The commissioner of the Pollution Control Agency may specifically authorize the open burning of oil as an emergency response to an oil spill.

b. Hazardous waste. No person shall conduct, cause, or permit open burning of hazardous waste as defined in Minnesota Statutes, Section 116.06, subdivision 11.

c. Industrial solid waste. No person shall conduct, cause, or permit open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial structure.

d. Demolition debris. No person shall conduct, cause, or permit open burning of burnable building material generated from demolition of commercial or institutional structures. A farm building is not a commercial structure.

e. Salvage operations. No person shall conduct, cause, or permit salvage operations by open burning.

f. Motor vehicles. No person shall conduct, cause, or permit the processing of motor vehicles by open burning.

g. Garbage. No person shall conduct, cause, or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving, or consumption of food.

6. Prohibited Acts.

- a. Burning ban. No person shall conduct, cause, or permit open burning during a burning ban put into effect by the Town, county, or a state department or agency.
- b. Smoldering fires. Fires must not be allowed to smolder with no flame present, except when conducted for the purpose of managing forests, prairies, or wildlife habitats.
- c. Failure to extinguish a fire. Any person who starts a fire must control or extinguish the fire, whether on owned property or on the property of another, before the fire endangers or causes damage to the property of another person or of the public.
- d. Failure to control a permit fire. Any person who has a burning permit must keep the permitted fire contained within the area described on the burning permit and keep the fire restricted to the materials specifically listed on the burning permit.
- e. Careless or negligent fires. No person shall carelessly or negligently start a fire that endangers or causes damage to the property of another person or of the public.
- f. Careless or negligent acts. No person shall participate in an act involving careless or negligent use of motor vehicles, other internal combustion engines, firearms with tracers or combustible wads, fireworks, smoking materials, electric fences, torches, flares, or other burning or smoldering substances whereby a fire is started and is not immediately extinguished before the fire endangers or causes damage to the property of another person or of the public.

7. Cost recovery for fire calls. When a fire within the Township results in a call for fire department services, the fire marshal of the responding department shall determine whether the fire was started, maintained, or allowed to burn in violation of this Chapter. If the Fire Marshal makes such a determination, the Town Clerk shall assess a fire call charge to the property on which the fire took place, in an amount established by the Town Board by separate resolution. A property owner aggrieved by the charge may petition the Town Board within 30 days of receiving the notice of charge to request that the charge be forgiven. The Town Board, in its sole discretion, may forgive a charge for a fire call upon finding that the Ordinance violation was not attributable to the acts or omissions of an owner, lessee, occupant, or invitee on the property. On or before October 15th of each year, the Town Clerk shall certify all fire call charge balances outstanding for more than 30 days to the County Auditor for collection with property taxes levied against the property.

8. Penalty. Violation of any portion of Sections 3, 5 or 6 of this Chapter is a misdemeanor. The filing of a misdemeanor complaint shall not preclude the Town from pursuing other legal remedies related to the violation of this Chapter, including but not

limited to criminal charges under Minnesota statutes and the assessment and collection of a fire call fee as described in Section 7.

9. Severability. If any section, clause, provision, or portion of this Chapter is adjudged unconstitutional or invalid by a court of law, the remainder of this Chapter shall not be affected and shall remain in full force.

ORDINANCE 6: MINING

CHAPTER 1: ORDINANCE204

CHAPTER 2: PURPOSE.....205

CHAPTER 3: DEFINITIONS206

CHAPTER 4: PERMIT REQUIRED210

CHAPTER 5: MINERAL EXTRACTION PERMIT APPLICATION REQUIREMENTS ..213

CHAPTER 6: PERMITTING PROCEDURE216

CHAPTER 7: MINERAL EXTRACTION PERFORMANCE STANDARDS.....219

CHAPTER 8: TERMINATION, VIOLATIONS AND PENALTIES228

CHAPTER 9: ENFORCEMENT230

CHAPTER 10: FEES231

CHAPTER 11: FINANCIAL GUARANTY233

CHAPTER 12: LIABILITY INSURANCE234

CHAPTER 13: PRE-EXISTING MINERAL EXTRACTION FACILITIES.....235

CHAPTER 14: VALIDITY247

ORDINANCE 6: MINING

Chapter 1: Ordinance

This Ordinance shall be known and cited as the Township of Eureka Mineral Extraction Ordinance, except as referred to herein as “this Ordinance.”

Chapter 2: Purpose

The purpose of this Ordinance is to protect the public health, safety and welfare through the following:

- A. Identify areas in the community where mineral extraction is most appropriate and minimizes conflicts with other land uses.
- B. Establish permitting requirements, environmental review procedures and performance standards to regulate mineral extraction.
- C. Establish standards that distinguish between longer term and shorter term mineral extraction activities.
- D. Establish standards that prevent or minimize environmental and aesthetic impacts on extracted properties, adjacent properties and the community as a whole.
- E. Establish standards and financial guaranties that restore extracted land to a condition compatible with adjacent properties and suitable for future uses that are compatible with the Eureka Township Comprehensive Plan and zoning ordinance.

Chapter 3: Definitions

Accessory Uses

Uses of a mineral extraction facility that are incidental to mining and are not included as an authorized principal use. Accessory uses might include the manufacture, storage and sale of products made from minerals on the premises, and storage and sale of minerals and topsoil not extracted on the premises (in the case of level 3 permits, ready mix concrete plants are an allowable accessory use).

Agricultural

As defined by the Eureka Township Zoning Ordinance.

Commission

The Planning Commission of Eureka Township.

Comprehensive Plan

The Eureka Township Comprehensive Plan.

Development Agreement

A written contract between the Operator, the property owner and Eureka Township, which outlines all the terms of the permit for a mining extraction facility, including any additional terms outside this Ordinance that are imposed by the Town Board.

Dewatering

The pumping, extraction or removal of subsurface water.

Dust

Airborne mineral particulate matter.

Excavation

The movement of soil and minerals or the removal of minerals.

Floodplain

The beds proper and the areas adjoining a wetland, lake or watercourse that have been or hereafter may be covered by the regional flood.

Haul Routes

Roads used for transport to and from a mineral extraction facility.

Interim Use Permit

A use approved by the Township for a specified period of time.

Mineral

Sand, gravel, rock, clay and similar higher density non-metallic natural materials.

Mineral Extraction

The removal of sand, gravel, rock, clay and similar higher density nonmetallic natural minerals from the ground.

Mineral Extraction Facility

Any area that is being used for removal, stockpiling, storage, and processing of minerals.

Mineral Extraction Permit

The interim use permit required for mineral extraction activities that will specify a time period for operation.

Operator

Any person or persons, partnerships or corporations or assignees, including public or governmental agencies, engaging in mineral extraction.

Principal Use

The principal use of a mineral extraction facility is the extraction, crushing, screening, mixing, processing, washing, storage and sale of minerals from the facility. The principal use does not include a concrete block plant or a ready-mix concrete plant or an asphalt production plant or a concrete recycling plant or an asphalt recycling plant, except as stated in Chapter 7, Section 1(B); and in Chapter 7, Section 1(K); and in Chapter 13, Section 2(H); and in Chapter 7, Section 2(I).

Processing

Any activity which may include the on-site crushing, washing, stockpiling, compounding, mixing, or treatment of sand, gravels, rocks, or similar mineral products from the site into consumable products such as construction grade sand, gravel, and other similar products.

Ready Mix Concrete Plant

Shall mean and refer to a facility at which ingredients are mixed to precise specification and then loaded into truck mounted mixers for delivery to off site construction projects.

Reclamation

To renew land to self-sustaining long-term use that is compatible with contiguous land uses, present and future, in accordance with the standards set forth in the Eureka Township Zoning Ordinance and in the Comprehensive Plan.

Recycling

The process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

Recyclable Materials

Materials that are separated from mixed municipal solid waste for the purpose of recycling, including concrete rubble, concrete and asphalt taken from road demolition or road repair projects, and other recyclable asphalt and recyclable concrete.

Setback

The area of property surrounding a mineral extraction facility intended as a buffer zone.

Shoreland

Land located within the following distances from public waters: one thousand (1000) feet from the ordinary high water level of any lake, pond or reservoir, and three hundred (300) feet from rivers and streams, or the landward extent of a floodplain designated by the Ordinances on a river or stream, whichever is greater.

Soil

A natural three-dimensional body of the earth's surface.

Staging

Preparation for daily hauling activities, including weigh-in, warm up, and lining up of trucks.

Subject Property

The land on which mineral extraction is permitted.

Topsoil

The upper portion of the soils present that is the most favorable material for plant growth.

Town Board

The Board of Supervisors of Eureka Township.

Township

The Township of Eureka, Dakota County, Minnesota.

Wetlands

A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971) or its equivalent or otherwise classified as a wetland under the Township's Zoning Regulation.

Zoning Ordinance

The Eureka Township Zoning Ordinance.

Chapter 4: Permit Required

Section 1 - PERMIT REQUIRED

It is unlawful for any person, firm, company or corporation to extract or process minerals in the Township without first obtaining an interim use permit required in this Ordinance. Penalties for operating without a permit will be strictly applied according to Chapter 8, Termination, Violations and Penalties, hereof.

Section 2 - CRITERIA FOR GRANTING PERMITS

In granting a permit, the Eureka Town Board shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety and general welfare of occupants and owners of surrounding lands. Among other things, the following standards shall be considered:

- A. The use must not create an excessive burden on existing parks, schools, streets and other public facilities and utilities that serve or are proposed to serve the area.
- B. The use must be sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
- C. The structure and site must have an appearance that will not unreasonably create an adverse effect upon adjacent residential properties.
- D. The use must be reasonably related to existing land use.
- E. The use must be consistent with the purposes of the zoning regulations and the purposes of the zoning district in which the applicant intends to locate the proposed use.
- F. The use must be in conformance with the Eureka Township Comprehensive Plan.
- G. The use must not cause traffic hazard or congestion.
- H. Existing land uses nearby must not be adversely affected unreasonably by intrusion of noise, glare or general unsightliness.
- I. The use must not cause significant adverse impact to surface or ground water resources.

- J. Dewatering to obtain materials intersecting the groundwater shall not be allowed. The use of equipment such as draglines, trackhoes and backhoes to obtain materials intersecting groundwater shall be allowed.

Section 3 - LEVELS OF PERMITS

Interim Use Permits for mineral extraction will be issued according to the following levels of permits:

- A. Level 1 Permit. This is an expedited permit to meet the needs of short-term construction projects. It applies to operations that will not exceed five (5) acres of excavated area to a maximum depth of twenty (20) feet but not to exceed 1 foot above the water table and will be active for only one operating season. Compliance with reclamation standards is required. The Town Board may waive the Environmental Assessment Worksheet (EAW) requirement in the event there are clearly no environmental concerns. Should an Operator desire to expand or extend, the Operator will have to apply for a Level 2 or Level 3 permit; in such case the area of the mineral extraction covered by the Level 1 permit will be included in the overall mining area for the required Level 2 or Level 3 permit.
- B. Level 2 Permit. This permit applies to operations which will be active for more than one operating season and that will not exceed ten (10) acres of excavated area to a maximum depth to be determined by the approved site plan but not to exceed 1 foot above the water table. Compliance with reclamation standards is required. An EAW is required for this level of permit.
- C. Level 3 Permit. This permit applies to operations that will exceed ten (10) acres of excavated area to a maximum depth to be determined by the approved site plan but not to exceed 1 foot above the water table unless the end use is to be a lake or a wetland. In addition, the proposed mining plan must undergo a technical review by the Department of Natural Resources, Division of Lands and Minerals. Compliance with reclamation standards is required. An EAW is required for this level of permit.

Section 4 - ZONING

Mineral extraction shall be allowed in all agriculture-zoned districts, as identified in the Eureka Comprehensive Plan and in the Zoning Regulation.

Section 5 - EXCEPTIONS

A mineral extraction permit shall not be required for any of the following:

- A. Excavation for a foundation, cellar or basement of a structure or for residential landscaping if a building permit has been issued.
- B. Excavation conducted directly by state, county, city, or township authorities in connection with construction or maintenance of roads, highways, or utilities, conducted solely within permanent easement areas or rights-of-way.
- C. Curb cuts, utility hook-ups or street openings for which another permit has been issued by the Township.
- D. Excavation or removal of less than four hundred (400) cubic yards of material per year for use on the owner's property.
- E. Excavation or grading for agricultural purposes.

Chapter 5: Mineral Extraction Permit Application Requirements

Section 1 - APPLICATION

An application for a mineral extraction permit shall include but not be limited to the following information:

- A. Name, address, phone number, contact person for the Operator and signature of a legally authorized representative. (Resolution 59, 8-13-2007)
- B. Name, address, phone number and signature of the landowner.
- C. Level of permit for which the application is being made.
- D. Acreage and complete legal description of the property on which the mineral extraction will be located, including all contiguous property owned by the landowners.
- E. Acreage and complete legal description of the property on which the mineral extraction permit will apply.
- F. Type and estimated quantity of material to be extracted.
- G. The estimated time required to complete the proposed operation and reclamation, including starting and completion dates.
- H. A description of all vehicles and equipment proposed to be used by the Operator in the operation of the facility.
- I. A description of the estimated average daily and peak daily number of haul trucks accessing the facility, including a breakdown of Operator owned and non-Operator owned vehicles.
- J. The total estimated amount of all other daily vehicle traffic from workers, customers, and service vehicles.
- K. A description of the haul routes within the Township to be used in the operation of the facility.
- L. All information necessary to complete an Environmental Assessment Worksheet (EAW).

Section 2 - SUPPORTING DOCUMENTATION

Every application for a mineral extraction permit shall include submission of supporting documentation provided by a registered engineer licensed within the State of Minnesota which shall include, but may not be limited to, the following:

- A. A description of existing land uses on the subject property and all properties within one-half (1/2) mile of the boundaries of the tax parcel on which the subject property exists.
- B. A description of land use designations in the Comprehensive Plan and zoning classifications of the subject property and all properties within one-half (1/2) mile of the boundaries of the tax parcel on which the subject property exists.
- C. A description of the soil, vegetation, and mineral content of the subject property. A minimum of three (3) soil boring logs representative of the site and an analysis of the subsurface materials on the subject property must be submitted.
- D. A general description of surface waters, existing drainage patterns, groundwater conditions and depth of water tables on and within one-half (1/2) mile of the boundaries of the tax parcel on which the subject property exists.
- E. A general description of any wells or private sewer systems of record, pipelines, power lines and other utilities or appurtenances on the subject property and adjacent properties.
- F. A general description of the depth, quantity, quality and intended uses of the mineral deposits on the subject property.
- G. A map of current topography of the subject property, illustrated by contours not exceeding ten-foot intervals.
- H. A plan showing proposed topography of the subject property after mineral extraction has been completed, illustrated by contours not exceeding two (2)-foot intervals.
- I. A phasing plan which illustrates the sequencing of mineral extraction, the locations of processing equipment, mineral stockpiles, staging areas, accessory uses and access routes.
- J. Copies of Minnesota Pollution Control Agency (MPCA) application documents, EAW documents, EIS documents if required, and operating permits.

- K. A description of the site hydrology and drainage characteristics during extraction for each phase. Identification of any locations where drainage of any disturbed areas will not be controlled within the boundaries of the subject property and plans to control erosion, sedimentation and water quality of the runoff. This includes holding ponds, with standards to be determined by the Town Board.
- L. A description of the potential impacts to adjacent properties resulting from mineral extraction and off-site transportation, including but not limited to noise, dust, surface water runoff, groundwater contamination, traffic and aesthetics.
- M. A description of the plan to mitigate potential impacts resulting from mineral extraction.
- N. A description of site screening, landscaping and security fencing.
- O. An End Use Plan.
- P. A description of site reclamation in each phase of operation and upon completion of mineral extraction on the subject property.
- Q. Recommendations from Dakota County Soil and Water Conservation Service and the appropriate watershed management organization as required in Chapter 7, Section 1(U)(12).
- R. A description of the method by which complaints about any aspect of the facility operation or off-site transportation are to be received and the method which complaints are to be resolved.
- S. A general description of any lakes, wetlands, shoreland or flood plain areas located within one thousand (1000) feet of the proposed mining site. For project sites that include any of these water features within the proposed mining area, a delineated boundary describing size and location will be required.

Chapter 6: Permitting Procedure

Section 1 - INTERIM USE PERMIT

- A. Mineral extraction permits shall be considered and processed by the Town Board as interim use permits. The procedures are defined in the Eureka Township Zoning Regulation (Ordinance 3, Chapter 4, Section 16). If the Town Board grants the interim use permit, the Town Board shall specify the particular date or the occurrence of the particular event when the permit is to expire. The Town Board may attach conditions to the interim use permit in addition to those set forth in the Ordinances.
- B. Before making a formal application, applicants shall appear before the Town Board at a regularly scheduled meeting to make a preliminary presentation on the conceptual nature of the proposed extraction activity. The Town Board will provide the applicant with a copy of this Chapter, outlining the application process and permit requirements.
- C. The application and required supporting information shall be filed with the Planning Commission at its regularly scheduled meeting. If the application is incomplete, the Commission, in writing within fifteen (15) days, will notify the applicant of the additional information required for the application to be complete.
- D. Once the application is deemed complete, the Zoning Administrator shall provide landowners within 1,000 feet of the applicant's property with notification of the application for an interim use permit for mineral extraction via first class mail.
- E. A registered engineer licensed by the State of Minnesota and qualified in this field shall review the application. The Town Board shall select the engineering firm. The engineer will submit the results of his or her findings, along with any recommendations for actions, to the Planning Commission.
- F. Within thirty (30) days of receipt of the registered engineer's findings and recommendations, the Planning Commission, together with the engineer, shall prepare an Environmental Assessment Worksheet (EAW), according to Minnesota Rules, Chapter 4410. After this process is completed, the Town Board shall determine within thirty (30) days whether an Environmental Impact Statement (EIS) is required.
- G. Upon completion of the environmental review process, the Planning Commission, at its next regularly scheduled meeting, shall process the mineral extraction permit application as an application for an interim use permit, following the procedures for interim use permits defined in Ordinance 3, Chapter 4, Section 16. The Planning Commission may require

that the applicant submit additional information to address or clarify any issues raised in the environmental review. The formal interim use permit application review process shall commence only after completion of the environmental review and upon receipt of additional information required.

- H. Within thirty (30) days of receipt of all additional required information and upon completion of the environmental review process, the Planning Commission shall schedule, provide notice of, and hold a public hearing for the mineral extraction permit, following the procedures defined for interim use permits in Ordinance 3, Chapter 4, Section 16.
- I. After the public hearing, the Planning Commission shall make findings on the permit application and submit recommendations to the Town Board, following the procedures defined for interim use permits in Ordinance 3, Chapter 4, Section 16.
- J. If the Town Board, registered engineer, or Planning Commission cannot act upon the permit application within the permitting timeframes specified herein and by state law, the Town Board shall notify the applicant in writing to request an extension of time and stating the reasons for the extension.
- K. Any application that is inconsistent with the Comprehensive Plan will be denied. The applicant has the right to submit an application to the Town Board to amend the Comprehensive Plan, according to procedures established in Eureka Township Code of Ordinances.
- L. The Town Board shall approve the permit application, deny the permit application or approve the permit application with modification. Modifications may include additional restrictions.
- M. When a permit is approved, the Town Board or its designee shall complete a Development Agreement, signed by representatives of the Town Board, the landowner and the Operator (if different from landowner).
- N. A mineral extraction permit application denied by the Town Board may not be reapplied for, whether the same or modified application, for a period of twelve (12) months from the date of denial. (Ord. 2010-1, 6-14-2010). Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the interim use permit issued, shall require an amended interim use permit and all procedures shall apply as if a new permit were being issued. If the amendment does not include any change involving structural alterations, enlargement, intensification of use, or similar change of the primary use(s), the applicant may amend the originally filed supporting documentation including a registered engineer's finding stating whether an amended EAW/EIS is required. Upon approval of an amended interim use permit, the Development Agreement shall also

be amended to reflect the amended permit. The Zoning Administrator shall maintain a record of all interim use permits issued including information on the use, location, and conditions imposed by the Planning Commission and Town Board, time limits, review dates, and such other information as may be appropriate.

Section 2 - REVIEW OF PERMIT

In February of each year, the Town Board will review the mineral extraction permit. By January 31st of each year, the Operator will provide the following information to the Board and the Operator must pay the review fees referenced in Chapter 10:

- A. Amount of material removed; amount of material imported from off-site;
- B. Amount of material remaining to be removed;
- C. Evidence that bonding and insurance are still in force and effect;
- D. Status of permit holder's responses to complaints or violations during the previous year;
- E. History of permit holder's compliance with this mineral extraction regulations within the Ordinances and other governmental regulations relating to mining.
- F. Status of phasing plan;
- G. Status of reclamation;
- H. Up to date list of all vehicles and equipment on site; estimated number of vehicles accessing the facility;
- I. Report on condition of haul roads that serve or abut the facility;
- J. Status of erosion control measures;
- K. Any change in ownership and/or operator; and
- L. Other items of information requested by the Town Board.

In its review, the Town Board shall examine the information provided by the Operator and the Town Board shall determine whether the mineral extraction facility is in compliance with this Chapter, the conditions imposed by the permit and the Development Agreement.

Chapter 7: Mineral Extraction Performance Standards

Section 1 - PERFORMANCE STANDARDS

The following performance standards apply to all mineral extraction facilities in the Township:

- A. Hours of Operation. Mineral extraction facilities shall operate only between the hours of 7:00 a.m. and 5:30 p.m., Monday through Friday. A mineral extraction facility may be opened one hour before hours of operation to allow for staging. No Sunday or holiday operations will be allowed. The holidays are New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving and, Christmas. When New Year's Day, July 4th, Thanksgiving or Christmas fall on a Sunday, the following Monday shall be considered the holiday. When New Year's Day, July 4th, Thanksgiving or Christmas fall on a Saturday, the previous Friday shall be considered the holiday.
1. Operators are allowed extensions to the hours of operation for emergencies only. Operators must notify the Township Clerk or a Town Board member in advance of the proposed exception.
 2. The Town Board must approve other exceptions to the hours of operation, such as Saturday operation, government agency contracts and other evening work.
- B. Source of Materials. Only minerals from the site shall be processed at the mineral extraction facility subject, however, to the following exceptions:
1. Recyclable concrete and recyclable asphalt may be crushed and mixed on site if the crushing and mixing do not exceed fifteen (15) working days per calendar year and if the recyclable concrete and recyclable asphalt originated from a road demolition or road repair project in the Township of Eureka.
 2. The Operator may import off-site minerals onto the subject property for the purpose of mixing with minerals from the subject property provided the imported minerals on an annual basis do not exceed 25% of the minerals extracted from the subject property on an annual basis. Accessory uses may not exceed 25% off-site materials used in conjunction with each specified accessory use; therefore off-site materials may not be aggregated to a single accessory use, allowing a specific accessory use to exceed 25% of off-site minerals used in conjunction with the specific accessory use.

- C. Fencing. Regular fencing in good repair is required around the entire permitted area of operation. Fencing as a minimum must be three (3) wires with posts a maximum of twelve (12) feet apart and at least four (4) feet high.
- D. Access. All mineral extraction facilities shall have direct access to a 9-ton or greater capacity road. The Town Board shall set minimum roadway improvements and maintenance obligations as a condition of the permit. The point of the mining site access shall be at least 300 feet from any intersection or residential driveway, or as determined by the Town Board under special circumstances. Circumstances will include, but not be limited to, topography, safety, traffic, and existing land use.
- E. Haul Routes. All trucks traveling to or from the mineral extraction facility shall utilize 9-ton or greater roads capacity within the Township. Operators may be granted a special permit to utilize roadways temporarily posted under 9-tons, provided adequate surety is provided to cover the costs of repairing any damage to roadways. The Town Board may allow a Level 1 permit holder to use roads that are not 9-ton. Level 2 and Level 3 permits will require any sub-standard roads utilized by the mineral extraction facility as haul routes to be brought up to a MnDOT standard for 9-ton paved roads. The Operator will bear the cost of such an upgrade. The Township reserves the right to require road maintenance paid by the Operator on any haul route within the Township or those bordering the Township.
- F. Roadway Dust Control. Operators will be responsible for dust control on all gravel roads utilized by trucks hauling to or from the permitted mineral extraction facility. Dust control will be required when conditions warrant it and the number of one-way truck trips from the mineral extraction facility exceed three (3) per hour. The Township reserves the right to require dust control on any haul route within the Township or those bordering the Township.
- G. Mineral Extraction Facility Dust Control. The Township shall require dust control in a facility when it is determined that airborne dust from extraction areas, processing activities, stockpiles or internal roadways creates a public nuisance or otherwise adversely impacts surrounding lands. Remedies to dust control may include watering, berming, landscaping and enclosures for processing equipment, and any other means deemed necessary by the Town Board.
- H. Noise. Maximum noise levels at the facility will be consistent with the most current standards established by the Minnesota Pollution Control Agency (MPCA) and as deemed necessary by the Town Board.

- I. Vibration. Operators shall use all available means deemed necessary by the Town Board to eliminate adverse impacts of vibration from equipment on adjacent properties.
- J. Air Quality / Water Quality. All activities on the subject property will be conducted in a manner consistent with operating permits issued by state and federal agencies. The Town Board may require other standards it deems reasonably necessary. Increased run-off must be retained on-site with retention or detention ponds.
- K. Accessory Uses. Accessory uses must be identified in the permit. Accessory uses not identified in the permit are not allowed. The accessory uses of a concrete block production plant or ready-mix concrete production plant (Level 3 permits allow dry ready-mix concrete production plants) or asphalt production plant, shall be strictly prohibited. A concrete recycling plant and an asphalt recycling plant are also prohibited, except as stated in Chapter 7, Section 1(B). The storage, stockpiling, sale, and mixing of materials that have been excavated off-site are strictly prohibited, except for the mixing of materials as provided in Chapter 7, Section 1(B). Accessory uses will terminate when the principal use terminates. Accessory uses may not collectively account for more than 50% of total mine operations based upon the volume of minerals extracted from the subject property, so that primary uses account for greater than 50% of the total mine operation as measured by volume.
- L. Unauthorized Storage. Any vehicles, equipment or materials not associated with the mineral extraction facility or not in operable condition may not be kept or stored at the facility.
- M. Setbacks. No extraction activity may occur within one thousand (1000) feet of any dwelling and within fifty (50) feet of any adjacent property line, road right-of-way or public utility. Screeners, crushers, other processing equipment and manufacturing equipment may not be located closer than one thousand (1000) feet from a dwelling nor closer than one hundred (100) feet from any adjacent property line, road right-of-way or public utility. Setbacks from an existing dwelling shall take precedence over setbacks for road right-of-way, adjacent property line and public utility. If the processing equipment is placed within an enclosed structure, the Town Board may consider shorter setback distances. Grading plans affecting pipelines or power line corridors will be evaluated on a case-by-case basis. The Town Board may waive setback requirements when the common boundary area of an adjoining property is a legal mining operation, the common boundary is not within one thousand (1000) feet of a residence, and both property owners of adjacent mining operations have agreed to a common reclamation plan and have a written agreement with the Township establishing responsibility for reclamation. Notwithstanding the setback

requirements set forth above, at the time of permit issuance, the Town Board may impose lesser setback requirements if the Town Board finds the following:

1. Practical difficulties exist in complying with the setback requirements set forth above; and
2. The protections afforded surrounding lands are not significantly lessened by the reduced setbacks when taking into account the following:
 - a. the scope and size of the mineral extraction facility;
 - b. the time and duration that the mining will occur in proximity to surrounding lands;
 - c. reduced operating hours or restricted seasons of operation or additional berming, screening or other measures can be imposed to ameliorate the impact of mining in closer proximity to the surrounding lands than would be allowed by the setbacks stated above; and
 - d. The lesser setbacks are reasonable in light of all circumstances; and
 - e. There is a substantial volume of minerals in the more restrictive setback areas and it is reasonable to mine the substantial volume of minerals in the more restrictive setback areas in light of the relatively small volume of minerals that can be mined on the remainder of the subject property.

If the Township receives a request for lessened setbacks, then prior to consideration of such request by the Town Board the request shall be referred to the Planning Commission for a recommendation. Prior to consideration of the request by the Planning Commission, the Clerk shall send notice by certified mail to all landowners that own property within one thousand (1000) feet of the proposed mining area. The notice shall be sent at least ten (10) days prior to the meeting at which the lessened setbacks are to be considered by the Planning Commission. The notice shall state the date, time and place of the Planning Commission meeting and the requested setbacks. For the purpose of giving mailed notice, the Clerk may use any appropriate records to determine the names and addresses of the owners having land within one thousand (1000) feet of the proposed mining area. The failure to give mailed notice or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply has been made. The applicant shall reimburse the Township for all costs associated with giving the notice.

- N. Phasing. Phasing plans must be prepared for all mineral extraction facilities. The Operator and owner must follow the phasing plan approved by the Town Board. No more than ten (10) acres of land may be exposed to extraction at any one time. A maximum of twenty-five (25) acres may be utilized at any one time for extraction, processing, staging and stockpiling. Areas where extraction has been completed shall be reclaimed according to the provisions of this Chapter, except for that area currently being used in the maximum twenty-five (25) acre operational area.
- O. Berming. Earthen berms shall be constructed along all road rights-of-way. In the instance where the setback from a residence applies under Chapter 7, Section 1(M), then, in addition, earthen berms shall be constructed along the adjoining property line. Berms shall provide screening of the mining activity from the right-of-way and any adjoining property line on which a berm is required. A combination of berms and other screening which has no written objection from any owners of real property located within 1000 feet of the proposed extraction activity may satisfy this requirement, subject to Town Board approval of the design. In the absence of such an alternate design, berms shall be a minimum of eight (8) feet in height. All berms shall have a minimum slope of 3:1 and have a silt fence at the base on the side closest to adjacent property. The silt fence shall be maintained until vegetation is established, at which time it shall be removed. (Ord. No 2009-1, 2-9-2009)
- P. Heights. The maximum height of any excavation, temporary crushing equipment, or temporary stock piles located less than one thousand (1000) feet from the property line shall be a minimum of eight (8) feet below the average height of the adjacent berms within the mandatory setback.
- Q. Weed Control. The operators shall be required to control noxious weeds and mow or harvest other vegetation to maintain reasonable appearance of the site.
- R. Explosives. If the Operator desires the use of explosives, a separate interim use permit shall be required for each incident to provide adequate public notice and input.
- S. General Compliance. The operator must comply with all other federal, state, regional, county and local laws and regulations applicable to the operation of the mineral extraction facility, including but not limited to floodplain management regulations, shoreland management regulations and zoning regulations.

- T. Additional Regulations. The Township may impose additional regulations and requirements to the mineral extraction permit to protect the public health, safety, and welfare.
- U. Reclamation Plan. A reclamation plan must include the grading plans, on-site topsoil replacement, seeding, mulching, erosion control and sedimentation control specifications for each phase and the final site restoration. The Operator and owner must follow the reclamation plan approved by the Town Board. The following minimum standards and conditions apply:
1. The peaks and depressions of the area shall be reduced to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion due to rainfall. No graded slope shall exceed a 4:1 ratio (twenty-five (25) percent). The final grade slope shall commence at the property boundary. Berms will be removed to the original elevation of the land, unless the Board has approved a different elevation as part of the End Use Plan.
 2. Excavations made to a water producing depth must meet the following requirements:
 - a. The depth of the excavation for lake end-use must not be less than ten (10) feet nor more than thirty (30) feet below the natural low water mark, as determined by the Town Board after consultation by its engineer with Dakota County Soil and Water and/or the Department of Natural Resources.
 - b. The depth of the excavation for a wetland end-use shall be from one (1) foot above the natural low water mark to a depth not to exceed one (1) foot below the natural low water mark, as determined by the Town Board after consultation by its engineer with Dakota County Soil and Water and/or the Department of Natural Resources.
 - c. A combination of the requirements of 7.01 U – 2 (a) and (b) as approved by the Town Board.
 - d. All banks shall be sloped to the water line at a slope that shall not be steeper than ten (10) feet horizontal to one (1) foot vertical (10:1) for a lake end-use, and ten (10) feet horizontal to one (1) foot vertical (10:1) for a wetland end-use.
 - e. All banks shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding and to a depth of at least three (3) inches.

- f. Such topsoil as required by the preceding subsection shall be planted with trees, shrubs, legumes or grasses.
 - g. All materials used for back-filling in any area of the reclamation shall be tested and be free of all contaminants, and shall be non-noxious, non-flammable and non-combustible.
 - h. Wetland or lake reclamation shall conform to the guidelines of the 1992 edition of "A Handbook for Reclaiming Sand and Gravel Pits in Minnesota," published by the Minnesota Department of Natural Resources.
3. Excavating not made to a water producing depth, but which must be graded or back-filled, shall meet the following requirements;
 - a. All materials used for back-filling in any area of the reclamation shall be tested and be free of all contaminants, and shall be non-noxious, non-flammable and non-combustible.
 - b. The graded or back-filled area shall not collect or permit stagnant water to remain therein.
 - c. Such graded or back-filled area shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least three (3) inches.
 - d. Such topsoil as required by the preceding subsection shall be planted with trees, shrubs, legumes or grasses.
4. Seeding and mulching shall be consistent with Minnesota Department of Transportation specifications for rights-of-way. Exceptions to seeding and mulching include areas returned to agricultural production.
5. Soil restoration, seeding and mulching must occur within each phase as soon as final grades, or interim grades identified in the phasing plans, have been reached. Exceptions to seeding and mulching include the processing, storage and staging areas within each phase.
6. Soil erosion and sedimentation control measures shall be consistent with MPCA's publication entitled "Protecting Water Quality in Urban

Areas” and the applicable section of the Eureka Comprehensive Use Plan.

7. Unless otherwise amended or approved by the Township, all final grades and site restoration efforts shall be consistent with the reclamation plan.
 8. When the end-use is some form of open space, the type of vegetative re-growth must provide appropriate habitat for wildlife consistent with the form of end-use.
 9. The end-use plan shall consider the safe use of the property. The end-use plan shall be consistent with the Comprehensive Plan and zoning regulations.
 10. Within nine (9) months after completion of mineral extraction or after termination of the permit, all equipment, vehicles, machinery, materials, stock piles of extracted mineral materials, and debris shall be removed from the subject property.
 11. For each phase, within nine (9) months after completion of mineral extraction for that phase, reclamation must be completed. If the permit is terminated earlier, reclamation must be completed within nine (9) months after termination.
 12. Soil And Water Conservation District And Watershed Review And Recommendations. As a part of the original application for an interim use permit, the applicant shall submit grading plans, phased reclamation plans and water control plans to the Dakota County Soil and Water Conservation District and to the governing bodies of the township watersheds for review and recommendations. Said recommendations on the phased reclamation, grading, soil and water retention plans shall be reviewed annually by the Town Board and may be included as conditions of the interim use permit.
- V. Depth of Excavation. Excavation and extraction shall not occur beyond the depth set by the Board in the permit. In setting the depth of excavation, the Town Board shall consider the standards stated in Chapter 4, Section 2, as well as recommendations from Dakota County, the Soil and Water Conservation District and the independent engineering firm selected by the Town Board under Chapter 6, Section 1(D).
- W. Dewatering. Dewatering to obtain materials intersecting the groundwater shall not be allowed. The use of equipment such as draglines, trackhoes and backhoes to obtain materials intersecting groundwater shall be allowed.

Chapter 8: Termination, Violations And Penalties

Section 1 – TERMINATION

The mineral extraction permit shall be terminated on the happening of any of the following events:

- A. The date or event of termination specified in the interim use permit.
- B. Upon a violation of a condition under which the permit was issued, but only after the Town Board has first provided written notice to the Operator and land owner (if different from the Operator) describing the specific violation and steps necessary to be in compliance with the permit and after having been given a reasonable opportunity to remedy the violation, but in no case longer than five (5) working days. The first violation of any condition will result in written notice and appearance before the Town Board. Second violation of any condition will result in written notice and a misdemeanor. Third violation of any condition will result in written notice and termination of permit.
- C. Upon violation of hours of operation, dust control, noise, road maintenance, or truck safety issues, the Town Board will notify the Operator and land owner (if different from the Operator) in writing. They will be given twenty-four (24) hours to come into compliance. Enforcement will be as follows: First violation of any condition will result in written notice and appearance before the Town Board. Second violation of any condition will result in written notice and a misdemeanor. Third violation of any condition will result in written notice and termination of permit. To the extent Chapter 8, Section 1(C) is more demanding than Chapter 8, Section 1(B), then Chapter 8, Section 1(C) shall apply.
- D. Each day that a violation continues beyond the allotted time to repair constitutes a new violation.

Section 2 - MISDEMEANOR PENALTY

Any person who violates or fails to comply with any provision of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished to the maximum extent authorized in Minnesota Statutes, as amended from time to time. Each day the violation continues shall constitute a separate offense. If the violations are not remedied to the satisfaction of the Town Board, the permit will be terminated.

Section 3 - IMMEDIATE CESSATION OF MINING UPON CONTAMINATION OF DRINKING WATER

If at any time it is proven that the mining operation is contaminating drinking water as prescribed by the Minnesota Department of Health Safe Drinking Water Standards or any natural spring, the Town Board will notify the Operator and property owner (if different from the Operator) in writing and mining will cease immediately. If this cannot be resolved to the satisfaction of the Town Board, the permit will be terminated.

Section 4 - DATA PRACTICES ACT

All complaints must be in writing and available for public viewing provided that the identity of complainant is confidential pursuant to the Minnesota Data Practices Act.

Section 5 - VERIFICATION OF VIOLATIONS

All violations must be verified by the Town Board before action is taken.

Section 6 - DETERMINATION OF CRITICAL VIOLATIONS

Violations will be reviewed each year by the Town Board. If violations are deemed not critical by the Town Board, the following year of the permit will start with no pending violations. If violations are found to be critical by the Town Board, such violations will be added into the following year of the permit and continue to count as a violation.

Chapter 9: Enforcement

Section 1 - INSPECTION

The Operator grants the Township's officers and representatives' access to the facility during normal operation hours to inspect the mineral extraction facility and enforce the provisions of this Ordinance.

Section 2 - RESPONSIBILITY FOR REPAIR AND MAINTENANCE

The Operator shall be responsible for the repair and maintenance of public and private property which is damaged by it, its agents or employees in conducting business or any other activity associated with the mineral extraction facility.

Section 3 - DEVELOPMENT AGREEMENT

A development agreement will be required for all mineral extraction permits, including seasonal extraction permits.

Chapter 10: Fees

Section 1 - APPLICATION FEE

Before an application will be processed, the applicant will pay a non-refundable application fee in an amount established by the Town Board and reviewed annually.

Section 2 – ESCROW

The applicant must pay for all estimated expenses to be incurred by the Township before an application will be processed. The Town Board will determine estimated expenses within thirty (30) days of the filing of the application. The applicant will make such payments into an escrow account with the Township. The prepayment amounts shall be a credit toward the costs of the attorney, planners, engineers and other professional consultants that the Township uses to review the application to prepare documents, to inspect the facility, to make recommendations and to enforce this Ordinance; all such costs are the obligation of the applicant and the applicant must reimburse the Township for such costs. All such costs, if not already paid by the escrow, shall be paid by the applicant within thirty (30) days of final action on the matter by the Town Board. If such costs are less than the escrowed amount, such escrow will be returned to the applicant within thirty (30) days of final action on the matter by the Town Board.

Section 3 - REIMBURSEMENT OF COSTS

The applicant shall reimburse the Township for all out of pocket expenses as incurred by the Township in the review of the initial and review applications, public hearing, preparation of documents, inspections and enforcement of this Ordinance, whether a permit is issued or not.

Section 4 – FEES

The Town Board shall establish fees by ordinance for the issuance and review of mineral extraction permits. The review fee shall be based on the previous year's production in tons or yards times a dollar amount, with an established minimum amount, and set by ordinance. Fees and expenses must be paid at the time of issuance and thereafter on or before January 31st of each year for the permits that have not been terminated. Failure to pay review fees and expenses shall be a violation of this Ordinance.

Section 5 - FUTURE IMPOSITIONS

If in the future the state law enables the Town to impose a host community fee, tax, mineral extraction charge or other governmental imposition to compensate the Town for the effects of a mineral extraction facility, then the Township reserves the right to impose such fees, taxes, charges or other governmental impositions on all mineral extraction facilities, including, but not limited to, those that exist at the time the fees, taxes, charges or impositions are established.

Chapter 11: Financial Guaranty

The Operator must provide and maintain a performance bond, cash escrow or a letter of credit, in a form acceptable to the Township, to guarantee compliance with this Ordinance and the terms and conditions of the development agreement. The Township shall have the right to use the financial guaranty to remove stockpiles and complete site reclamation and correct other deficiencies or problems caused by the Operator, in the event the Operator is in default of the permit obligations. The amount of financial guaranty shall be a minimum of Three Thousand Dollars (\$3,000) for every unreclaimed acre. This amount may be increased by the Board with reference to the increase in the Consumer Price Index (CPI) for the Minneapolis-St. Paul Area. The financial guaranty shall include acreage used for stockpiling and processing as well as extraction and shall remain in full force and effect for a minimum period of nine (9) months or after reclamation or cleanup of the site is complete, whichever is longer.

Chapter 12: Liability Insurance

Section 1 - LIABILITY INSURANCE

The Operator shall at all times procure and maintain at the Operator's expense general public liability insurance, automobile liability insurance and workers' compensation insurance. This insurance shall cover claims for bodily injuries, wrongful death, and property damage occurring as a result of the Operator's performance of its duties under the Development Agreement and under this Ordinance. Such insurance shall afford protection to a limit of not less than One Million Dollars (\$1,000,000.00) in respect to injuries or death to a single person, to a limit of not less than Five Million Dollars (\$5,000,000.00) in respect to any one accident or occurrence, and to a limit of not less than Five Hundred Thousand Dollars (\$500,000.00) in respect to property damage. The Township shall be a named additional insured on all such policies of insurance. The Operator shall file with the Township a certificate evidencing coverage before the commencement date of the term of the mineral extraction permit.

The certificate shall provide that the Township must be given thirty (30) days written notice of the cancellation of insurance.

Section 2 – INDEMNIFICATION

The Operator shall hold the Township harmless against all claims by third parties for damage or costs arising out of, resulting from or related to mineral extraction, processing and reclamation on the subject property or incurred in the development of the subject property. The Operator shall indemnify the Township for all costs, damages, or expenses incurred by the Township arising from such claims, including attorneys' fees.

Chapter 13: Pre-Existing Mineral Extraction Facilities

Section 1 - PRE-EXISTING MINERAL EXTRACTION FACILITIES AS LEGAL NON-CONFORMING USES

This entire Chapter 13 applies only to those pre-existing mineral extraction facilities described in this Chapter 13, Section 1, relating to the property legally described in Chapter 13, Section 9.

Notwithstanding Chapter 4, Section 1, those mineral extraction facilities in the Township that:

- A. exist as of the effective date of this Ordinance; and
- B. prior to the effective date of this Ordinance obtained from the Town Board the annual mining permit for calendar year 2002, which was previously required under Township Ordinance No. 13 (now repealed);

shall have the right to continue as mineral extraction facilities and as legal non-conforming uses, without first obtaining an interim use permit for a mineral extracting facility and without complying with Chapters 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this Ordinance, as long as there is compliance with the conditions and the performance standards in Chapter 13, Section 2, and as long as Chapter 13, Sections 3 through 9, are met. This right shall run with the applicable property and this right shall be subject to Minnesota Statute § 462.357, subd. 1e.

Section 2 - PERFORMANCE STANDARDS

The following performance standards shall apply to all existing mineral extraction facilities in the Township that are permitted to operate by Chapter 13, Section 1, of this Ordinance:

- A. Hours of Operation. Previously permitted mineral extraction facilities shall operate only between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday. Truck loading and hauling of material shall be allowed on Saturdays, only between the hours of 7:00 a.m. and 3:00 p.m. A mineral extraction facility may be open one hour before and one hour after the hours of operation to allow for staging and equipment repair. No Sunday or holiday operations will be allowed. The holidays are New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving and, Christmas. When New Year's Day, July 4th, Thanksgiving or Christmas fall on a Sunday, the following Monday shall be considered the holiday. When New Year's Day, July 4th, Thanksgiving or Christmas fall on a Saturday, the previous Friday shall be considered the holiday.

1. Operators are allowed extensions to the hours of operation for emergencies only. Operators must notify the Town Clerk or a Town Board member in advance of the proposed exception.
 2. The Town Board must approve other extensions to the hours of operation, such as Saturday operation, government agency contracts and other evening work.
- B. Dewatering. Dewatering, to obtain materials intersecting the groundwater shall not be allowed. The use of equipment such as draglines, trackhoes and backhoes to obtain materials intersecting groundwater shall be allowed.
- C. Content of Reclamation Plans. Previously permitted mineral extraction facilities shall supply the Town Board with a plan showing the proposed topography of the subject property after mineral extraction has been completed, illustrated by contours not exceeding ten (10) foot intervals. The plan shall be prepared by a registered engineer licensed within the State of Minnesota and shall conform to the guidelines of the July 1992 edition of "A Handbook For Reclaiming Sand and Gravel Pits in Minnesota", published by the Minnesota Department of Natural Resources.

A reclamation plan must include the grading plans, on-site topsoil replacement, seeding, mulching, erosion control, and sedimentation control specifications for the final site restoration. The Operator and owner must follow the reclamation plan approved by the Town Board. The following minimum standards and conditions apply:

1. Excavations made to a water producing depth must meet the following requirements:
 - a. The depth of the excavation for lake end-use must not be less than ten (10) feet nor more than thirty (30) feet below the natural low water mark, as determined by the Town Board after consultation by its engineer with Dakota County Soil and Water and/or the Department of Natural Resources.
 - b. The depth of the excavation for a wetland end-use shall be from one (1) foot above the natural low water mark to a depth not to exceed one (1) foot below the natural low water mark, as determined by the Town Board after consultation by its engineer with Dakota County Soil and water and/or the Department of Natural Resources.
 - c. A combination of 13.02 C 1 (a) and (b) above may be allowed as approved by the Board.

2. Excavating not made to a water producing depth, but which must be graded or back-filled, shall meet the following requirements;
 - a. All materials used for back-filling in any area of the reclamation shall be tested and be free of all contaminants, and shall be non-noxious, non-flammable and non-combustible.
 - b. The graded or back-filled area shall not collect or permit stagnant water to remain therein.
 - c. Such graded or back-filled area shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least three (3) inches.
 - d. Such topsoil as required by the preceding subsection shall be planted with trees, shrubs, legumes or grasses.
3. Seeding and mulching shall be consistent with Minnesota Department of Transportation specifications for rights-of-way. Exceptions to seeding and mulching include areas returned to agricultural production.
4. Soil erosion and sedimentation control measures shall be consistent with MPCA's publication entitled "Protecting Water Quality In Urban Areas" and the applicable section of the Eureka Comprehensive Use Plan.
5. Unless otherwise amended or approved by the Township, all final grades and site restoration efforts shall be consistent with the reclamation plan.
6. When the end-use is some form of open space, the type of vegetative re-growth must provide appropriate habitat for wildlife consistent with the form of end-use.
7. Within nine (9) months after completion of mineral extraction or after termination of the permit, all equipment, vehicles, machinery, materials, stockpiles of extracted mineral materials, and debris shall be removed from the subject property.
8. Soil And Water Conservation District And Watershed Review And Recommendations. The Operator shall submit grading plans, phased reclamation plans and water control plans to the Dakota County Soil and Water Conservation District and to the governing

bodies of the Township watersheds for review and recommendations.

- D. Submission and Approval of Reclamation Plan. By December 31, 2002, the Operator of the mineral extraction facility must submit a reclamation plan to the Township. By December 31, 2003, the Operator must have obtained approval by the Town Board of the reclamation plan and Operator must thereafter comply with the approved reclamation plan.
- E. Compliance With Reclamation Plan. Once the reclamation plan is approved by the Town Board, the Operator must comply with the reclamation plan.
- F. No Expansion Without Obtaining Interim Use Permit. The mining area may not be expanded beyond the boundaries for the mining area that were approved in the annual mining permit for 2002 (previously issued by the Township under now repealed Township Ordinance No. 13). If the Operator seeks to expand the mining area, the Operator must obtain an interim use permit for the entire mineral extraction facility under Chapter 4, Section 1, including those portions previously mined as well as the proposed expanded mining area.
- G. Air Quality / Water Quality. All activities on the subject property will be conducted in a manner consistent with operating permits issued by state and federal agencies. The Town Board may require other standards it deems necessary. Increased run-off must be retained on-site with retention or detention ponds.
- H. Source of Materials. Only minerals from the site shall be processed at the mineral extraction facility subject, however, to the following exceptions:
 - 1. Recyclable concrete and recyclable asphalt may be crushed and mixed on site if the crushing and mixing do not exceed fifteen (15) working days per calendar year and if the recyclable concrete and recyclable asphalt originated from a road demolition or road repair project in the Township of Eureka.
 - 2. The Operator may import off-site minerals onto the subject property for the purpose of mixing with minerals from the subject property provided the imported minerals on an annual basis do not exceed 25% of the minerals extracted from the subject property on an annual basis.
- I. Accessory Uses. No accessory use will be allowed in conjunction with the mineral extraction facility unless the accessory use, by separate voting action of the Town Board, is approved by the Town Board. The accessory uses of a concrete block production plant or ready-mix concrete production plant or asphalt production plant, shall be strictly prohibited. A concrete

recycling plant and an asphalt recycling plant are also prohibited, except as stated in Chapter 13, Section 2(H). The storage, stockpiling, sale, and mixing of materials that have been excavated off-site are strictly prohibited except for the mixing of materials as provided in Chapter 13, Section 2(H).

- J. Unauthorized Storage. Any vehicles, equipment or materials not associated with the mineral extraction facility or not in operable condition may not be kept or stored at the facility.
- K. Phasing and Site Plan; Content, Submission and Approval. Previously permitted mineral extraction facilities shall supply the Town Board with a phasing and site plan which illustrates the sequencing of mineral extraction, the locations of processing equipment, mineral stockpiles, staging area, accessory uses and access routes. By December 31, 2002, the Operator of the mineral extraction facility must submit a phasing and site plan to the Township. By December 31, 2003, the Operator must have obtained approval by the Town Board of the phasing and site plan and Operator must thereafter comply with the approved phasing and site plan.
- L. Compliance With Phasing and Site Plan. Once the phasing and site plan is approved by the Town Board, the Operator must comply with the phasing and site plan.
- M. Explosives. If the Operator desires the use of explosives, a separate interim use permit shall be required for each incident to provide adequate public notice and input.
- N. General Compliance. The Operator must comply with all other federal, state, regional, county and local laws and regulations applicable to the operation of the mineral extraction facility, including but not limited to floodplain management regulations, shoreland management regulations and zoning regulations.
- O. Set-Back. Production or processing of minerals shall not be conducted closer than thirty (30) feet to the boundary of any zone where such operations are not permitted, nor shall such production or processing be conducted closer than twenty (20) feet to the boundary of any adjoining property line, nor closer than two hundred (200) feet from any adjoining structures, unless the written consent of the fee owner of such adjoining property is first secured. Mineral extraction shall not be made closer than thirty (30) feet to the right-of-way line of any existing or platted street, roadway or highway, except that excavating may be conducted in such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway.

- P. Appearance. All buildings, structures and plants used for the production or processing of minerals shall be maintained in such a manner as to assure that such buildings, structures and plants will not become dangerously dilapidated. Weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to prevent seeding on adjoining property.
- Q. Dust, Dirt and Haul Roads. All equipment used for the production of minerals shall be constructed, maintained and operated in such a manner as to minimize, as far as is practical, dust conditions which are annoying to persons living in the vicinity. All access roads from the mineral extraction facility to public highways, road or streets or to adjoining property shall be paved, treated or watered by the Operator so as to minimize dust conditions.
- When the gravel or other mining operation terminates, the Operator shall restore all roads used for hauling to the same condition as the road was when the mineral extraction facility commenced.
- R. Noise. All equipment used for the production of minerals shall be constructed, maintained and operated in such a manner as to minimize any vibrations which are injurious or annoying to persons living in the vicinity.
- S. Surface Water. The mining operation shall in no way be allowed to interfere with surface water drainage nor shall the mining operation be allowed to affect the quality of surface or subsurface water.
- T. Black Dirt and Topsoil. The excavation or removal of black dirt or topsoil for sale or for use other than on the premises from which the soil shall be taken, except in connection with the construction or alteration of a building on the premises and the excavation or grading incidental thereto, is prohibited.
- U. Safety Fencing. Any sand and gravel operations within a one hundred fifty (150) yard radius of which there are more than two (2) family residential units, and which operation results in or produces, for a period of at least one month, collections of water, or slopes steeper than one (1) foot vertical to three (3) feet horizontal, shall be subject to the following safety requirements:
1. Where such collections of water are one and one-half (1 ½) feet or more in depth for any period of at least one month, and occupying an area of seven hundred (700) square feet or more, all access to such collections of water shall be barred by a fence or some similarly effective barrier of at least six (6) feet in height.

2. Where such slopes steeper than one (1) foot vertical to three (3) feet horizontal exist for a period of one month or more, access to such slopes shall be barred by a fence, berm or some similarly effective barrier of at least six (6) feet in height.

Section 3 - FINANCIAL GUARANTY

The Operator must provide and maintain a performance bond, cash escrow or a letter of credit, in a form acceptable to the Township, to guarantee compliance with this Ordinance. The Township shall have the right to use the financial guaranty to remove stockpiles and complete site reclamation and correct other deficiencies or problems caused by the Operator, in the event the Operator is in violation of this Ordinance. The amount of financial guaranty shall be a minimum of Three Thousand Dollars (\$3,000) for every unreclaimed acre. This amount may be increased by the Board with reference to the increase in the Consumer Price Index (CPI) for the Minneapolis-St. Paul Area. The financial guaranty shall include acreage used for stockpiling and processing as well as extraction and shall remain in full force and effect for a minimum period of nine (9) months or after reclamation or cleanup of the site is complete, whichever is longer.

Section 4 - LIABILITY INSURANCE

The Operator shall at all times procure and maintain at the Operator's expense general public liability insurance, automobile liability insurance and workers' compensation insurance. This insurance shall cover claims for bodily injuries, wrongful death, and property damage occurring as a result of the Operator's performance of its duties under this Ordinance. Such insurance shall afford protection to a limit of not less than One Million Dollars (\$1,000,000.00) in respect to injuries or death to a single person, to a limit of not less than Five Million Dollars (\$5,000,000.00) in respect to any one accident or occurrence, and to a limit of not less than Five Hundred Thousand Dollars (\$500,000.00) in respect to property damage. The Township shall be a named additional insured on all such policies of insurance. The Operator shall file with the Township a certificate evidencing coverage before the commencement date of the term of the mineral extraction permit. The certificate shall provide that the Township must be given thirty (30) days written notice of the cancellation of insurance.

The Operator shall hold the Township harmless against all claims by third parties for damage or costs arising out of, resulting from or related to mineral extraction, processing and reclamation on the subject property or incurred in the development of the subject property. The Operator shall indemnify the Township for all costs, damages, or expenses incurred by the Township arising from such claims, including attorneys' fees.

Section 5 - REVIEW OF LEGAL NON-CONFORMING USE

In February of each year, the Town Board will review the legal non-conforming use. By January 31st of each year, the Operator will provide the following information to the Town Board and the Operator must pay the review fees referenced in Chapter 13, Section 8:

- A. Amount of material removed; amount of material imported from off-site;
- B. Amount of material remaining to be removed;
- C. Evidence that bonding and insurance are still in force and effect;
- D. Status of Operator's responses to complaints or violations during the previous year;
- E. History of Operator's compliance with this mineral extraction ordinances and other governmental regulations relating to mining.
- F. Status of phasing plan;
- G. Status of reclamation;
- H. Up to date list of all vehicles and equipment on site; estimated number of vehicles accessing the facility;
- I. Report on condition of haul roads that serve or abut the facility;
- J. Status of erosion control measures;
- K. Any change in ownership and/or operator; and
- L. Other items of information requested by the Town Board.

In its review, the Town Board shall examine the information provided by the Operator and the Town Board shall determine whether the mineral extraction facility is in compliance with this Ordinance.

Section 6 - TERMINATION, VIOLATIONS AND PENALTIES

The legal non-conforming use shall be terminated on the happening of any of the following events:

- A. Upon a violation of this Ordinance, but only after the Town Board has first provided written notice to the Operator and land owner (if different from the Operator) describing the specific violation and steps necessary to be in compliance and after having been given a reasonable opportunity to remedy the violation, but in no case longer than five (5) working days. The first violation of any condition will result in written notice and appearance

before the Town Board. Second violation of any condition will result in written notice and a misdemeanor. Third violation of any condition will result in written notice and termination of the legal non-conforming use.

- B. Upon violation of hours of operation, dust control, noise, road maintenance, or truck safety issues, the Town Board will notify the Operator and land owner (if different from the Operator) in writing. They will be given twenty-four (24) hours to come into compliance. Enforcement will be as follows: First violation of any condition will result in written notice and appearance before the Town Board. Second violation of any condition will result in written notice and a misdemeanor. Third violation of any condition will result in written notice and termination of the legal non-conforming use. To the extent Chapter 13, Section 6(B), is more demanding than Chapter 13, Section 6(A), then Chapter 13, Section 6(B), shall apply.
- C. Each day that a violation continues beyond the allotted time to repair constitutes a new violation.

Any person who violates or fails to comply with any provision of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished to the maximum extent authorized in Minnesota Statutes, as amended from time to time. Each day the violation continues shall constitute a separate offense. If the violations are not remedied to the satisfaction of the Town Board, the legal non-conforming use will be terminated.

If at any time it is proven that the mining operation is contaminating drinking water as prescribed by the Minnesota Department of Health Safe Drinking Water Standards or any natural spring, the Town Board will notify the Operator and property owner (if different from the Operator) in writing and mining will cease immediately. If this cannot be resolved to the satisfaction of the Town Board, the legal non-conforming use will be terminated.

All complaints must be in writing and available for public viewing provided that the identity of complainant is confidential pursuant to the Minnesota Data Practices Act.

All violations must be verified by the Town Board before action is taken.

Violations will be reviewed each year by the Town Board. If violations are deemed not critical by the Town Board, the following year will start with no pending violations. If violations are found to be critical by the Town Board, such violations will be added into the following year and continue to count as a violation.

Section 7 - ENFORCEMENT

The Operator grants the Township’s officers and representatives’ access to the facility during normal operation hours to inspect the mineral extraction facility and enforce the provisions of this Chapter.

The Operator shall be responsible for the repair and maintenance of public and private property which is damaged by it, its agents or employees in conducting business or any other activity associated with the mineral extraction facility.

Section 8 - FEES AND EXPENSES

The Operator shall reimburse the Township for all out of pocket expenses as incurred by the Township in the review of the legal non-conforming use, public hearing, preparation of documents, inspections and enforcement of this Chapter, including the costs of the attorney, planners, engineers and professional consultants used by the Township to review and inspect the mineral extraction facility.

The Town Board shall establish by regulations an annual fee for review of the legal non-conforming use. The annual review fee shall be based on the previous year’s production in tons or yards times a dollar amount, with an established minimum amount, and set by Chapter. Fees and expenses must be paid at the time of issuance and thereafter on or before January 31st. Failure to pay review fees and expenses shall be a violation of this Ordinance.

If in the future the state law enables the Township to impose a host community fee, tax, mineral extraction charge or other governmental imposition to compensate the Town for the effects of a mineral extraction facility, then the Township reserves the right to impose such fees, taxes, charges or other governmental impositions on all mineral extraction facilities, including, but not limited to, those that exist at the time the fees, taxes, charges or impositions are established.

NO.	TYPE OF APPLICATION OR PERMIT	FEE AMOUNT
A.	Initial Application Fee For New Mineral Extraction Permit	\$300.00
B.	Annual Review Fee For Interim Use Mineral Extraction Facility	\$150.00 or \$6.00 per 1000 cubic yards of material removed the previous calendar year, whichever is greater

NO.	TYPE OF APPLICATION OR PERMIT	FEE AMOUNT
C.	Annual Review Fee For Pre-Existing Non-Conforming Use Mineral Extraction Facility	\$150.00 or \$6.00 for 1000 cubic yards of material removed the previous calendar year, whichever is greater

Section 9 - LEGAL DESCRIPTIONS OF PRE-EXISTING MINERAL EXTRACTION FACILITIES

The pre-existing mineral extraction facilities that meet the requirements of Chapter 13, Section 1, are only the following four (4) properties in the Township of Eureka, Dakota County, Minnesota, legally described as:

Facility No. 1 Legal Description.

The South One-Half of the Northeast Quarter of Section 7, Township 113 North, Range 20 West, containing eighty acres, more or less.

Facility No. 2 Legal Description.

That part of the Northeast Quarter of the Northwest Quarter of Section 7, Township 113 North, Range 20 West, containing 40 acres more or less. The actual area to be mined will be approximately 24 acres.

Facility No. 3 Legal Description.

That part of the South Half of the Northwest Quarter, of Section 7, Township 113 North, Range 20 West, Dakota County, Minnesota, described as follows:

Beginning at the Southeast corner of the West 1716 feet of the said S $\frac{1}{2}$ of the NW $\frac{1}{4}$ of the said Section 7; thence North along the East line of the West 1716 feet of the said S $\frac{1}{2}$ of the NW $\frac{1}{4}$, a distance of 600 feet, more or less, to the North line of the South 600 feet of the said S $\frac{1}{2}$ of the NW $\frac{1}{4}$; thence West along the said North line of the South 600 feet, a distance of 726 feet, more or less, to the East line of the West 990 feet of the said S $\frac{1}{2}$ of the NW $\frac{1}{4}$; thence north along the said East line of the West 990 feet, a distance of 720 feet, more or less, to the North line of the said S $\frac{1}{2}$ of the NW $\frac{1}{4}$; thence East along the said North line to the West line of the East 630 feet of the said S $\frac{1}{2}$ of the NW $\frac{1}{4}$; thence South along the said West line of the East 630 feet, a distance of 930 feet, more or less, to the South line of the North 930 feet of the said S $\frac{1}{4}$ of the NW $\frac{1}{4}$; thence East along the said South line of the North 930 feet, a distance of 580 feet, more or less, to the west line of the East 50 feet of the said S $\frac{1}{2}$ of the NW $\frac{1}{4}$; thence South along the said West line of the East 50 feet, a distance of 390 feet, more or less, to the South line

of the said S $\frac{1}{2}$ of the NW $\frac{1}{4}$; thence West, along said South line to the point of beginning.

Facility No. 4 Legal Description.

The existing ten (10) acre site where mining has occurred surrounding and including the following parcels: Beginning at the SW corner of Section 6, Township 113 North, Range 20 West, thence East along the South line 600 feet, thence north 200 feet, thence East 355 feet, thence south 200 feet to the South line of Section 6, Township 113, Range 20, then back to the point of beginning.

and

Beginning at the NW corner of Section 7, Township 113, Range 20, thence East along the North line 600 feet, thence South 400 feet, thence East 355 feet, thence North 400 feet to the North line of Section 7, Township 113, Range 20, thence West to the point of beginning.

Chapter 14: Validity

Section 1 - VALIDITY; SEVERABILITY

Should any provision of this Ordinance be declared by the courts to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any other part thereof, unless so specified in the judgment. If the courts declare the application of any of the provisions of this Ordinance to any individual, use, property or structure to be invalid, such judgment shall not affect the validity of said application of any provision to any other individual, use, property or structure, unless so specified in the judgment.

ORDINANCE 7: FEES

CHAPTER 1: PAYMENT OF FEES249

CHAPTER 2: ESTABLISHMENT OF FEES250

CHAPTER 3: PAYMENT OF DELINQUENT CHARGES.....260

ORDINANCE 7: FEES

Chapter 1: Payment of Fees

Required application fees and escrow for a permit, license or land use approval (such as a rezoning, variance, conditional use permit or interim use permit) must be paid at the time of application, unless otherwise specified by the Ordinance that requires the permit, license or land use approval. The application for a building permit shall be accompanied by a fee. (Ord. 2010-1, 6-14-2010)

In addition, the applicant shall reimburse the Township for all attorney, planning, engineering costs and other professional consultant costs incurred by the Township in reviewing and processing the application, in inspecting the work performed and in enforcing the permits, licenses and approvals.

The Township may require that applicants deposit in escrow with the Township, together with the application fees, the sums required by the Town Board toward prepayment of the attorney, planning, engineering and professional consultant costs. The prepayment amounts shall be a credit toward the fees for the attorney, planning, engineering and other professional consultant fees to be reimbursed by the applicant. All such sums, if not already paid by the escrow, shall be paid by the applicant within thirty (30) days of final action on the matter by the Town Board. If such fees are less than the escrowed amount, such escrow will be returned to the applicant within sixty (60) days of final action on the matter by the Town Board. Applicants shall be permitted to withdraw their applications at any time, but shall not be entitled to refund of escrow funds already expended. (Ord. 2010-1, 6-14-2010)

Where the estimated cost of proposed construction, erection, conversion, alteration, or enlargement is in excess of \$75,000.00, and in the judgment of the Town Board it should be desirable or necessary to employ the professional services of a registered engineer, architect, or other qualified personnel to examine the structure under construction, then the total amount of the fees shall be increased by the amount necessary to pay for such professional services. (Resolution 59, 8-13-2007, Ord. 2010-1, 6-14-2010)

Chapter 2: Establishment of Fees

The following fees and escrow amounts are required and are hereby established.

NO.	TYPE OF APPLICATION OR PERMIT	FEE AMOUNT
A.	Initial Application Fee For New Mineral Extraction Permit	\$300.00
	Escrow for Initial Application for New Mineral Extraction Facility	\$7,500
B.	Annual Review Fee For Interim Use Mineral Extraction Facility	\$150.00 or \$6.00 per 1000 cubic yards of material removed the previous calendar year, whichever is greater
C.	Annual Review Fee For Pre-Existing Non-Conforming Use Mineral Extraction Facility	\$150.00 or \$6.00 for 1000 cubic yards of material removed the previous calendar year, whichever is greater
D.	Outdoor Assemblies	\$100.00 for license to hold assembly for one day; additional license required for each day and each location for \$100.00 each. In addition to license fee the licensee is required to file a bond with the Town Clerk in the amount of \$100.00 per person for the maximum number of people permitted to assemble.
E.	Legal Non-Conforming Uses, Lots, or Structures	
	<ol style="list-style-type: none"> 1. Application for Verification of a Nonconforming Use, Structure, or Lot 2. Application for Expansion or Alteration of a Nonconforming Use 	<p>\$50.00</p> <p>\$600.00 plus \$1,000.00 escrow for legal notices, planning engineering and legal services and drafting of minutes.</p>
F.	Driveway or Approach Permit	<p>\$100.00 Landowner to supply driveway culvert.</p> <p>\$450.00 Eureka Township to supply 18" diameter or 24" diameter x 24' long culvert to landowner, landowner to install.</p>
G.	Building Permit	Total valuation: Fee:

		\$1.00 to \$500.00	\$40.00
		\$500.01 to \$2,000	\$40.00 for first \$500.00 \$3.35 for each additional \$100.00 or fraction thereof, to and including \$2,000.00.
		\$2,000.01 to \$25,000	\$90.25 for first \$2,000.00 plus \$15.40 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00.
		\$25,000.01 to \$50,000	\$444.45 for the first \$25,000.00 plus \$11.11 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00
		\$50,000.01 to \$100,000	\$722.20 for the first \$50,000.00 plus \$7.70 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00
		\$100,000.01 to \$500,000	\$1,107.20 for the first \$100,000.00 plus \$6.16 for each additional \$1,000.00 or fraction thereof, to and including \$500,000.00
		\$500,000.01 to \$1 million	\$3,571.20 for the first \$500,000.00 plus \$5.23 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
		\$1,000,000.01 and up	\$6,186.20 for the first \$1,000,000.00 plus \$4.02 for each additional \$1,000.00 or fraction thereof
	Plan Review Fee	65% of the Permit Fee for Residential and Commercial Projects	
	Special Investigation Fee (for work done without permit)	100% of building permit fee, in addition to permit and plan review fees.	
NO.	TYPE OF APPLICATION OR PERMIT		FEE AMOUNT
H.	Zoning Compliance Permit -Primary Structure -Accessory Structure -Ag Building		\$50.00 \$25.00 \$25.00
I.	Renewal of Building Permit		50% of the permit fee as established in the Uniform Building Codes

NO.	TYPE OF APPLICATION OR PERMIT	FEE AMOUNT
J.	Moving Building Into or Within the Township -Application Fee -Pre-Move Inspection Fee -Moved-in building connection fee Moved-in building mechanical connection fee Moved-in building plumbing connection fee Basement/Foundation Permit Fees	\$50.00 \$150.00 \$150.00 \$50.00 \$50.00 Based on valuation in addition to \$250 fee
Other Inspections And Fees Per Building Official Contract	-Inspections outside of normal business hours -Re-inspection Fee -Inspections for which no fee is specifically indicated, minimum one-half-hour charge -Site Inspection Fee Required on all new construction -Additional plan review required by changes, additions, or revisions to approved plans minimum one-half-hour charge -Miscellaneous and special services, as per contract	Minimum two-hour charge \$120.00 per hour \$60.00 each \$60.00 per hour -Residential \$50.00 each -Commercial \$75.00 each \$60.00 per hour \$60.00 per hour
K.	Conditional Use Permit 1. Application for Conditional Use Permit 2. County Filing Fee	\$600.00 plus \$1,000.00 escrow for legal notices, planning engineering and legal services and drafting of minutes. Filing fee as established by Dakota County Recorder's Office.

NO.	TYPE OF APPLICATION OR PERMIT	FEE AMOUNT
L.	Amended Conditional Use Permit 1. Application for Amended Conditional Use Permit 2. County filing fee	\$600.00 plus \$1,000.00 escrow for legal notices, planning engineering and legal services and drafting of minutes. Filing fee as established by Dakota County Recorder's Office.
M.	Review of Conditional Use Permit	\$25.00
N.	Sign Permit	\$25.00 plus building inspector fees
O.	Variance	\$600.00 plus \$500.00 escrow for legal notices, planning engineering and legal services.
P.	Private Kennel Operator's License 1. Initial license 2. Renewal of license	\$100.00 \$100.00
Q.	Interim use Permit, or Renewal of Interim Use Permit (Except Mining)	\$600.00 plus \$1,000.00 escrow for legal notices, planning engineering and legal services and drafting of minutes.
R.	Swimming Pools	\$25.00 plus building inspector fees
S.	Permit fee for hangar	\$50.00 plus building permit fees as set by state building code fee schedule as approved by the Town Board.
T.	Fee for inspection by Town Board or Planning Commission member connected to a permit application or renewal	\$25 per inspecting member
U.	Amendment to Zoning Regulations Application Fee	\$600.00 plus \$1,000.00 escrow for legal notices, planning engineering and legal services and drafting of minutes.

NO.	TYPE OF APPLICATION OR PERMIT	FEE AMOUNT			
V.	Application Fee for Subdividing or Platting of New Land	\$600.00 plus \$1,000.00 escrow for legal notices, planning engineering and legal services and drafting of minutes.			
W.	Right-of-Way Fees	Units	Qty	Applies to	Fee Per-Unit
	<i>(See Definitions below)</i>				
	FILING FEE <i>(Due at time the permit is issued)</i>			ALL	\$50.00
	A. YEARLY REGISTRATION FEE	L.S.		Local	\$75.00
	B. EXCAVATION PERMIT FEES			All	
	1. Permit Application Fee Local	EA.		Local	\$100.00
	2. Permit Application Fee Large Utility/PUC/Pipeline	EA.		Large, PUC, Pipeline	\$1,000.00
	3. New Service Connection	EA.		All	-0-
	4. Repair and General Work	EA.		All	\$250.00
	5. Hole Excavation Fee	EA.		All	\$65.00
	6. Trench / Plow Plus \$1.00 per-LF over 100 LF Maximum of 5,000 LF. Beyond 5,000 LF \$.25 per LF	EA.		All	\$250.00
			L.F.	All	\$1.00
	7. Directional Bordering	EA.		All	\$250.00
	8. Other ()	L.S.		All	Not Less Than \$10.00
	C. OBSTRUCTION PERMIT	L.S.		All	Utility, Excavation, Roadway Obstruction
	1. Obstruction Permit	EA.		All	\$200.00
	D. DELAY PENALTY	L.S.		All	\$200.00
	Plus \$100 per week or portion thereof.	Week		All	\$100.00

Right-of-Way Fees	Units	Qty	Applies to	Fee Per-Unit
E. PERMIT EXTENSION (first week)	L.S.		All	\$50.00
Plus \$25.00 per week or portion thereof.	Week		All	\$25.00
F. DEGRADATION FEE will be based on all costs to repair the street/area to the appropriate detail if the permit holder elects not to repair plus \$300.00	L.S.		All	Not Less Than \$300.00 Plus All Cost
G. UNAUTHORIZED WORK Double Permit Fee	L.S.		All	Double Permit Fee
H. CLOSURE OF PUBLIC ROAD	L.S.		All	\$250.00
I. BOND – LOCAL UTILITY	EA.		Local	\$2,500.00
J. BOND – LARGE UTILITY	EA.		Large, PUC, Pipeline	\$250,000.00
K. FEES REGARDING ESCROWS				
1. Professional Services ESCROW			Large, PUC, Pipeline	\$2,500.00 Maintained Weekly
2. Road Maintenance ESCROW			Large, PUC, Pipeline	\$25,000.00 Maintained Weekly
L. Road Inspection Fee	EA.		Large, PUC, Pipeline	\$150.00
M. Driveway Permit	EA.		All	\$100.00 Driveway Permit \$450.00 If Culvert purchased from Township. See Application

Right-of-Way Fees	Units	Qty	Applies to	Fee Per- Unit
N. Weight Restriction Fee (Restrictions Set by Road Supervisor)	EA.		All	\$50.00 each trip in an out, plus they must repair any damage done to the road up to the Township's specifications
O. Telephone and Fiber Optic Cable Installation			ALL	See Ord. 4 Chapter 3 Section 1 and all permits that apply.
P. Board of Supervisors Special Meeting / Hearing				\$600.00 hearing fee plus \$150.00 fee for publishing for hearing held on a night other than a regular meeting night

WORD	DEFINITION
ALL	Individually and collectively, one and all.
DEGRADATION	Diminution or reduction of strength, efficacy, or value
EA.	Each
HOLE	An excavation; a pit; an opening; to cut, dig or bore a hole
LARGE UTILITY	Company that provides public utility service outside the township; pass through utilities, such as fiber optic cable, power lines, communication lines, cable, buried or above ground.
LOCAL UTILITY	Company that provides public utility service locally; to the township residents
L.F.	Lineal Feet
L.S.	Lump Sum
OBSTRUCTION	The act of obstructing; impedes; an obstacle; impediment; hindrance, in the road right-of- way.
PIPELINE UTILITY	Company that provides a line of pipe with pumping machinery and apparatus for conveying liquids, gases, or finely divided solids, such as petroleum or natural gas, between distant points.
PUC	Public Utility Commission

NO.	TYPE OF APPLICATION OR PERMIT	FEE AMOUNT
X.	North Cannon Watershed Permit Application (Resolution No. 47 on 6-12-06)	\$600.00 plus \$1,000.00 escrow for legal notices, planning engineering and legal services and drafting of minutes.
Y.	North Cannon Watershed Storm Water Pollution Prevention Plan (SWPPP) Security (Resolution No. 47 on 6-12-06)	The minimum amount of the SWPPP Security held shall be based on three thousand (\$3,000) dollars per cumulative acre of land disturbance. For projects that discharge to a Special Waters, the minimum SWPPP security shall be increased to five thousand (\$5,000) dollars per cumulative acre of land disturbance. The Township may require additional SWPPP securities if needed.
Z.	Lot Split Request	\$25.00
AA.	Lot of Record Verification	\$25.00 The Town Board shall require escrow of funds in the amount of \$500.00.
BB.	Building Right Cluster 1. Application fee 2. County filing fee	\$25.00 Filing fee as established by Dakota County Recorder's Office.
CC.	Special Meetings 1. Special meeting of the Town Board 2. Special meeting of the Planning Commission	\$600.00 plus \$500.00 escrow for legal notices, planning engineering and legal services and drafting of minutes. \$600.00 plus \$500.00 escrow for legal notices, planning engineering and legal services and drafting of minutes.
DD.	Application fee for Agricultural Preserve	\$25.00
EE.	Heating, Air Conditioning & Gas Piping Permit Fees (See below for Commercial Fees)	New home construction only, furnace and A/C are considered one unit \$45.00 for EACH Heating or Air Conditioning unit, including Air Exchange units, In-Floor heat systems, gas logs/fireplaces, factory wood burning and factory fireplaces. If permit issued for gas line/gas piping only, then minimum fee is \$45.00 plus surcharge

		<p>Masonry Fireplaces require a regular building permit; need to submit plans & fee based on valuation</p> <p>\$10.00 per gas fitting or connection, with a \$20.00 minimum (on gas fittings) plus surcharge</p> <p>-Special Investigation fee (for work w/o permit) 100% of applicable fee, in addition to fee.</p>
FF.	<p>Plumbing Permit -Residential (See below for Commercial)</p> <p>-Special Investigation fee (for work w/o permit)</p>	<p>\$5.00 per fixture with minimum of \$75.00 plus surcharge.</p> <p>100% of applicable fee, in addition to fee.</p>
GG.	<p>Commercial Project Fees -Building Permit Fees</p> <p>-Plumbing and Mechanical Fees</p> <p>-Commercial Plumbing Plan Review</p> <p>-Fire Sprinkler Systems</p> <p>-Demolition Permit Fees</p>	<p>Based on Valuation, including Re-Roof and Re-Side Projects</p> <p>1-1/4 of the Contract Price</p> <p>Plumbing Minimum \$75.00 plus surcharge</p> <p>Mechanical Minimum \$90.00 plus surcharge</p> <p>See Plumbing plan review fee schedule</p> <p>Based on valuation and requires a regular building permit, no surcharge</p> <p>Based on valuation and requires a regular building permit</p>
<p>Permit Valuation is based on construction Value or Minnesota State Valuation Whichever Is higher.</p>		
HH.	<p>State Surcharge Fee For Residential and Commercial projects</p>	<p>\$1,000,000.00 or less = 0.0005 x the valuation (minimum of \$5.00)</p> <p>\$1,000,001.00 to \$2,000,000.00 = 0.0004 x (Value- \$1,000,000.00)</p>

		Greater than \$2,000,001.00 See State Table
--	--	---------------------------------------------

(Resolution 59, 8-13-2007, Amended Ord. 2010-1, 6-14-2010, Amended Ord. 2012-1, 3-12-2012, Amended Ord. 2012-02, 10-9-2012, Amended Ord. 2013-01, Amended Ord. 2013-02)

Chapter 3: Require Payment of Financial Obligations Owed to the Township Prior To Approval and Issuance of Town Licenses and Permits.

SECTION 1. GENERAL REQUIREMENTS FOR TOWN APPROVALS. A license, permit, or other township approval or authorization of any kind may be granted only to an applicant who:

- A. Has complied with all relevant statutory, charter and title requirements;
- B. Has paid all fees, charges, taxes, special assessments and other debts or obligations that are due from the applicant and payable to the township regarding any matter; and
- C. Is in compliance with all Ordinance requirements and attached conditions regarding other township approvals that have been granted to the applicant for any matter.

SECTION 2. WAIVER. The requirements of Section 1(A) and (B) may be waived in the following circumstances:

- A. The applicant has provided sufficient safeguards to assure payment of debts or compliance with city requirements within a reasonable time after the city approval;
or
- B. Enforcement of the requirements would result in a significant hardship to the applicant for which the applicant bears no fault, or would otherwise result in an injustice, in the opinion of the Town Board.

**ORDINANCE 8: ENFORCEMENT OF
ORDINANCES**

CHAPTER 1: PENALTIES262

ORDINANCE 8: ENFORCEMENT OF ORDINANCES

Chapter 1: PENALTIES

In the event of a violation or threatened violation of the Ordinances, the Town Board, in addition to other remedies, shall institute appropriate actions of proceedings to prevent, restrain, correct or abate such violations, or threatened violations.

Any person, or persons, firm or corporation who shall violate any of the provisions hereof the Ordinances, or who shall fail to comply with any provisions hereof, or who shall make any false statement in any document required to be permitted under the provisions hereof shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine in an amount not to exceed \$1000.00 or by imprisonment for not to exceed ninety (90) days, or both, for each offense. Each day that the violation is permitted to exist shall constitute a separate offense.

The Township shall be entitled to pursue enforcement through criminal prosecution or through civil prosecution, and may seek damages injunction, or other remedies as appropriate. The choice of remedies shall not preclude the latest selection or contemporaneous selection of another. Pursuant to Minnesota Statute §366.01, subd. 10, the Township may seek its attorneys' fees and any fees associated with the enforcement proceeding for violation of the Ordinances.

ORDINANCE 9: WATER RESOURCES MANAGEMENT

CHAPTER 1: CANNON RIVER WATERSHED264

CHAPTER 2: VERMILLION RIVER WATERSHED278

ORDINANCE 9: WATER MANAGEMENT ORDINANCE

Chapter 1: NORTH CANNON RIVER WATERSHED

Section 1: Purpose

- 1.1 The purpose of this Chapter is to prevent or reduce the negative impacts of storm water runoff and to provide for the protection of water quality and natural resources by requiring that land disturbance activities comply with Township minimum standards for permit requirements, plan reviews, erosion control, storm water management and buffers.
- 1.2 This Chapter requires that all land disturbance activities, whether requiring a permit under this Chapter or otherwise, shall not result in nuisance conditions or threaten public safety, health and welfare. All work must be performed in conformance with the goals and strategies of the North Cannon River WMO Watershed Management Plan.

Section 2: Coverage

- 2.1 This Chapter covers all land disturbances, within the jurisdictional boundaries of Eureka Township.
- 2.2 Unless the Township has determined the activity to be exempt per Section 2.4, all proposed land disturbances that are equal to or greater than one (1) acre in size, and including the disturbance of less than one (1) acre that is part of a larger common plan of development or sale that will ultimately disturb greater than one (1) acre, and/or result in the temporary or permanent placement of or stockpiling of fifty (50) cubic yards or more of soil materials, shall apply to the Township for a permit and submit a project Storm Water Pollution Prevention Plan (SWPPP) for review and approval.
- 2.3 No land disturbance shall be allowed until the Township has approved the project SWPPP and issued a permit.
- 2.4 The following activities are not regulated under this Chapter and are Exempt;
 - A.) Minor land disturbance activities such landscaping, repairs, and maintenance work that are less than one (1) acre in size and not part of a larger common plan of development or sale.

- B.) Land disturbances to construct, install, or maintain public or private utilities that are less than one (1) acre in size and not part of a larger common plan of development or sale.
- C.) All USDA/NRCS agricultural activities for the production of agricultural, horticultural, or silvicultural crops and livestock production including the installation or maintenance of drainage tile lines and fencing for livestock or other agricultural purposes.
- D.) All wetland activities within or adjacent to a delineated wetland, authorized and performed in conformance with the rules of the Minnesota Wetland Conservation Act (WCA).
- E.) Emergency repair work requiring immediate action, provided the disturbed area is limited to the minimum area needed to address the emergency and the area is stabilized in accordance with this Chapter's requirements as soon as possible. A permit will be required for all subsequent or additional work.
- F.) Commercial mining activities including the extraction, crushing, washing, refining or processing of sand, gravel, rock, black dirt, peat and soils and their removal from the site.

Section 3: Definitions

3.1 For the purposes of this Chapter, the following terms, phrases, words, and their derivatives must have the meaning stated in Section 3.4 and shall include by reference the definitions found in Appendix "B" of the most current NPDES Construction Permit.

3.2 All references to specific sections of the Minnesota Statutes or Rules include amendments, revisions or recodifications of such sections.

3.3 The words "shall" and "must" are mandatory; the word "may" is permissive.

3.4 Definitions:

Applicant Any person or entity that applies to the Township for a permit under this Chapter.

BMPs Best Management Practices as described in the MPCA Protecting Water Quality in Urban Areas Manual.

Buffer Strip An area of dense vegetated ground cover abutting or surrounding a wetland, water body or watercourse that filters sediment and retains nutrients from storm water runoff.

Discharge The runoff or drainage of storm water, including snowmelt, from a project site. The discharge point is the location of a flow outlet or where flows cross a property line.

Exposed Soil Areas All areas where the vegetation (trees, shrubs, brush, etc.) has been removed or has not been established. This includes topsoil stockpile areas, fill/borrow areas and disposal areas.

Impervious Surface A constructed hard surface that either prevents or retards the entry of water and causes water to run off the surface in greater amounts than would have run off prior to the construction of the surface. Examples include: rooftops, sidewalks, patios, driveways, parking lots, storage areas, concrete, asphalt, gravel roads; and includes areas where the native soils have been densely compacted.

Infiltration The percolation of water into the ground to provide water quality treatment, groundwater recharge and reduce the amount of storm water runoff.

Land Disturbance All activities that removes or buries vegetative covers, exposes soil areas and/or results in a change in surface topography including: construction activity, excavation, fill, grading, stockpiling soil, the construction of any structure, and/or any other activity that may cause or contribute to erosion or the movement of sediment. (Agricultural activities are not a land disturbance under this Chapter. See Section 2 for other exempt activities.)

Landlocked Basin A basin that is one acre or more in size and does not have a natural or publicly maintained outlet at or below the calculated flood elevation.

LID Low Impact Development – Site designs to reduce storm water impacts and mimic natural conditions.

MPCA Minnesota Pollution Control Agency – Administrator of the NPDES permit program.

NPDES National Pollutant Discharge Elimination System – State permit program to protect water quality.

Nuisance Condition Any condition resulting in or likely to result in any damages, degraded water quality, increased erosion, unstable conditions, flooding, lack of easement, lack of capacity, disrepair and all threats to public health, safety and welfare.

Ordinary High Water (OHW) The boundary of water basins, watercourses, public waters and public water wetlands and:

- (1) The ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon

the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;

- (2) For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and
- (3) For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

Runoff Coefficients (RCNs) An assigned number used in hydrologic models to represent the amount of precipitation that is not infiltrated into the surface upon which it falls. The higher the RCN; the greater the runoff amount.

Structure Anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and storage areas.

SWCD Dakota County Soil and Water Conservation District

SWPPP Storm Water Pollution Prevention Plan – A project plan identifying the existing site conditions, the proposed work and specific actions to be taken to protect water quality per the NPDES permit.

USDA/NRCS agricultural activities – All agricultural activities for the production of agricultural, horticultural, or silvicultural crops and livestock production including the installation or maintenance of drainage tile lines and fencing for livestock or other agricultural purposes regardless of whether the land owner or land operator is enrolled in the Federal Farm Program.

Section 4: Erosion and Sediment Control Standards

All projects discharging to Special Waters as defined in Minn. R. 7050.0180 shall comply with the additional requirements of most current Appendix "A" of the NPDES Construction Permit. Where provisions of Appendix "A" conflict with the requirements elsewhere in this Chapter, the provisions in Appendix "A" shall take precedence.

- 4.1 All land disturbances requiring a permit under this Ordinance, shall submit a Storm Water Pollution Prevention Plan (SWPPP) to the Township for review and approval.
- 4.2 The SWPPP must clearly show the nature and extent of the proposed work and shall specify the work must be performed in conformance with this Ordinance and the most current requirements of the NPDES Construction Permit.
- 4.3 The Township may require the applicant to submit any additional information or data it determines to be necessary to complete its review. Submittals determined by the Township to be incomplete or otherwise unacceptable for the purposes of this Chapter shall be returned to the applicant for correction and resubmittal.
- 4.4 The minimum submittal requirements are:
 - A.) A detailed SWPPP in compliance with the most current NPDES Construction Permit.
 - B.) The following additional information shall be submitted to the Township for review along with the SWPPP information:
 1. Location of surface waters including wetlands delineations, lakes, streams, shoreland zoning, floodplains, 303(d) Impaired Waters, Outstanding Resource Value Waters and Special Waters.
 2. Identify all unstable areas such as steep slopes, ravines, and gullies.
 3. Discharge points where predevelopment and post development flows cross property lines.
 4. Copies of approved permits from local, state and federal agencies applicable to the work.

Section 5: Storm Water Management Standards

All projects discharging to Special Waters as defined in Minn. R. 7050.0180 shall comply with the additional requirements of the most current Appendix "A" of the NPDES Construction Permit. Where provisions of Appendix "A" conflict with the requirements elsewhere in this Chapter, the provisions in Appendix "A" shall take precedence.

- 5.1 In addition to the SWPPP, all land disturbances cumulatively creating a total of one (1) or more acres of new impervious surface must also submit engineered construction plans and calculations to the Township for review and approval. The cumulative new impervious surface shall include both the onsite areas and the

offsite areas where impervious surfaces have been created in association with the work. (i.e., new streets, lane widening, etc)

- 5.2 The engineered construction plans and calculations must clearly show the nature and extent of the proposed work and specify a storm water management system designed to effectively manage storm water, for the both onsite and offsite work areas, in conformance with this Chapter, the most current NPDES Construction Permit and all other applicable Federal, State and/or Local regulatory requirements.
- 5.3 The Township may require the applicant to submit any additional information or data it determines to be necessary to complete its review. Submittals determined by the Township to be incomplete or otherwise unacceptable for the purposes of this Chapter shall be returned to the applicant for correction and resubmittal.
- 5.4 The minimum engineered construction plan submittal requirements are:
- A) A registered professional engineer must sign all engineered construction plans and calculations.
 - B) The engineered construction plans and calculations must include sufficient information for the Township to evaluate the changes to the storm water drainage characteristics within the watershed areas affected by the proposed land disturbance activity and the designed performance of the new system.
 - C) A written assessment that identifies the potential for downstream nuisances conditions.
 - D) The following information shall be submitted to the Township for review:
 - 1. A detailed SWPPP in compliance with the most current NPDES Construction Permit.
 - 2. Engineered construction plans showing all proposed onsite and offsite site improvements and all land disturbance areas.
 - 3. Drainage exhibits identifying the drainage areas, patterns, pervious/impervious surface covers and assigned RCNs for the pre-developed and post-developed conditions.
 - 4. Map identifying the hydrological soil types.
 - 5. A Drainage Summary and Drainage Exhibit identifying the existing and proposed peak discharge rates at each project discharge point for the 2, 10 and 100-year events and volume for the 1-year event.
 - 6. Supporting documentation used to determine peak discharge rates and volumes.
 - 7. First floor and lowest opening elevations for all existing and proposed buildings and information regarding whether the structure is or is not in a land-locked area. Identify location and elevation of all emergency overflows.
 - 8. The normal and high water and 100-year flood elevations for all adjacent water bodies whether natural or created and the delineation of all areas subject to flooding at the 100-yr flood elevation.
 - 9. Location and size of all existing public and private drains and tiles lines.

- 10. Identification of the downstream drainage conditions at each project discharge point.
 - 11. Location of all wetlands, water bodies, watercourses, 303(d) Impaired Waters, Outstanding Resource Value Waters and Special Waters.
 - 12. Copies of approved permits from local, state and federal agencies applicable to the work.
- 5.5 All storm water must be discharged in a manner that shall not cause nuisance conditions, erosion in receiving channels or on down slope properties, or inundation in wetlands causing a significant adverse impact to the wetlands as determined by the regulating governmental agency.
- 5.6 The minimum design capacity of drainage systems shall be the ten (10) year storm event and shall be designed to convey runoff from a one hundred (100) year event without significant damage or significant risk to human health and safety.
- 5.7 Discharge Rate Controls: Storm water discharges shall be controlled so that at each project discharge point, the pre-development two (2), ten (10), and one hundred (100) year storm event peak discharge rates are not increased in the post-developed condition.
- 5.8 The hydrological model calculations used to determine the pre-developed and post-developed discharge rates and volume shall use the Natural Resources Conservation Service (NRCS) SCS TR-20 and TR-55 Methods as defined in the current Hydrology Guide for Minnesota.
- 5.9 The SCS TR-20 and TR-55 model calculations shall use rainfall depths for the one (1), two (2), ten (10) and one hundred (100) year, 24-hour storm events of 2.4, 2.8, 4.2 and 6.0 inches respectively and Type II rainfall distribution.
- 5.10 Pre-development model calculations shall be based on the underlying hydrological soil group and the SCS Runoff Curve Numbers (RCNs) assigned in Table 1.

Table 1 – Pre-Development Runoff Curve Numbers

Hydrologic Group	Soil	A	B	C	D	Impervious
Runoff Number	Curve	39	61	74	80	98

- 5.11 Post-development model calculations shall be based on the underlying hydrological soil group and assigned SCS Runoff Curve Numbers (RCNs) for urban areas that are most appropriate to the proposed post-developed surface cover.
- 5.12 All RCNs used shall assume an undrained soil condition unless the sub-drainage system is publicly owned and maintained.

- 5.13 All projects creating one (1) or more acres of new impervious surface shall incorporate Low Impact Development (LID) practices into the project design to the extent that the pre-development one (1) year storm event runoff volume is not increased in the post-developed condition.

Examples of LID strategies to reduce runoff volumes may include:

- A. Creating as much un-mowed natural area on the site as possible. RCNs are lower for wooded, meadow and buffer strip areas than mowed areas.
 - B. Minimizing new impervious surfaces wherever possible.
 - C. Directing roof drains and pavement drainage to natural areas rather than to streets, storm sewers and ditches to reduce the total area of connected impervious surface.
 - D. Using raingardens and natural depressions to retain runoff on-site.
- 5.14 Prior to construction, silt fences are required to surround natural areas and areas where infiltration practices will be located. These areas must be protected from construction activity, sediment and compaction. These areas shall receive the same level of protection during construction as that given to Individual Sewage Treatment System (ISTS) septic sites.
- 5.15 If wet sedimentation basins are part of the storm water management system, the basins shall be designed in compliance with the Walker Method (1987); and must have an armored emergency overflow set at the 100-year level. The top of pond berms must be at least 1-foot above the emergency overflow and be at least 10-feet wide to provide maintenance access. Pond outlets must have a skimming device. The minimum water quality volume that must be treated by the project's permanent storm water management system shall be one half (1/2) inch of runoff from the new impervious surfaces created by the project.
- 5.16 Public Drainage and Utility Easements are required for all storm water facilities, wetlands, buffer strips, floodplains and connecting drainage routes. All easements shall include a connection to a public road for access and maintenance.
- 5.17 Public drainage systems shall not rely upon the continued operation of a private drainage system (such as a tile line system). All storm water facilities must be designed assuming that private systems will no longer function unless a permanent easement is provided for future maintenance and a professional engineer has certified the private system has design capacity and service condition that make it suitable as a component of the public drainage system.
- 5.18 Structure Lowest Floor Elevations shall be based on the following:

In land-locked basins areas: The lowest floor elevation shall be the lesser of 1-foot above the surveyed basin overflow; or 3-feet above the high water level of the basin calculated assuming 100-year back to back events under full build-out

conditions for the contributing watershed and assuming all private drainage systems no longer function.

Where the 100-year flood level has been established: The lowest floor elevation shall be the greater of at least 1-foot above the 100-yr flood elevation or 1-foot above the emergency overflow.

For public waters and public water wetlands (DNR protected water bodies) where the 100-yr flood elevation has not been established: The lowest floor elevation shall be at least 3 feet above the ordinary high water level (OHW).

In all other cases: The minimum floor elevation shall be at least 3 feet above the highest known water level.

- 5.19 Subject to Township approval, an applicant may also make an in-kind or a monetary contribution to the development and maintenance of community storm water management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.

Section 6: Vegetated Buffer Protection Standards for Rivers, Streams and Wetlands

All projects discharging to Special Waters as defined in Minn. R. 7050.0180 shall comply with the additional requirements of the most current Appendix "A" of the NPDES Construction Permit. Where provisions of Appendix "A" conflict with the requirements elsewhere in this Chapter, the provisions in Appendix "A" shall take precedence.

- 6.1 Any drainage, filling, excavation or other alteration of a wetland shall be conducted in compliance with Minnesota Statutes, Section 103G.245, the Wetland Conservation Act, and regulations adopted hereunder including the Department of Natural Resources (DNR) and the Corp of Engineers (COE). The applicant is responsible to research and obtain all applicable permits.
- 6.2 All construction storm water discharges into waters of the state shall be in conformance with the most current NPDES Construction Permit and all other applicable local, state and federal regulations. The applicant is responsible to research, obtain permits and perform all work in compliance with all applicable requirements for discharges, including but not limited to:
- A) Into or within 2000-feet of Special Waters (trout waters, fens, scientific natural areas, etc)
 - B) Into 303(d) impaired waters
 - C) Into outstanding resource value waters (ORVWs)
 - D) Into public waters and wetlands
 - E) Requiring further environmental review (EAW, EIS, AUAR etc)

- F) Affecting endangered or threatened species
 - G) Affecting historic places or archeological sites
 - H) Dakota County Shoreland and Floodplain Districts
- 6.3 Wetland may be used for storm water storage and treatment only if the use will not adversely affect the function and public value of the wetland as determined by the appropriate regulating governmental agency.
- 6.4 If any land disturbance is within two hundred (200) feet of a wetland, a wetland delineation report and functional assessment for vegetative diversity shall be submitted to the Township and appropriate regulating governmental agency for review and approval prior to Township issuance of a permit.
- 6.5 All structures shall have a minimum setback of 35-feet from the delineated edge of wetlands.
- 6.6 A permanent vegetative buffer strip, at least 25-feet in width, is required parallel to and adjoining all delineated wetland boundaries, water bodies, watercourses and streams to filter storm water runoff. The Township may require wider buffers widths for the protection of higher value resources. Buffer strips are not required around storm water ponds or roadside ditches.
- 6.7 The first 25-feet of the buffer strip as measured from the water body, stream or wetland edge cannot be cleared, graded or otherwise disturbed during construction without prior written Township approval. Grading within the buffer for the purpose of accommodating house pad or yard elevations is prohibited. The buffer perimeter must be surrounded by silt fencing prior to construction. Adjacent construction grading or storm water outlets must not channelize surface flows into or otherwise decrease the effectiveness of the buffer.
- 6.8 Preserving the existing acceptable vegetation within the buffer strip in an undisturbed state is required. Mowing is prohibited unless completed as part of an approved management plan. Acceptable vegetation consists of a continuous, dense layer of perennial grasses and/or an overstory of trees and shrubs that allows sheet-flow surface drainage to slowly pass to filter sediments and retain nutrients.
- 6.9 If unacceptable vegetation is to be removed within a buffer strip, it must be replaced with acceptable vegetation using a MnDOT, NRCS, or BWSR seed mixture and/or native trees and shrubs. This new vegetation must be established within a timeframe that minimizes bare soil exposure or other erosion-prone conditions. Unacceptable vegetation includes noxious weeds and plants, low density with bare soil areas, channelized flow or other condition making it unlikely to filter sediments and retain nutrients.

Section 7: Procedural Requirements

- 7.1 The Township shall only grant approval for work in compliance with this Chapter.
- 7.2 The Township reserves the rights to withhold permit inspections and/or the issuance of new permits for sites that are in violation of any state or local regulations until such violations have been resolved.
- 7.3 The Township shall collect fees as set forth in Ordinance 7 to cover reimbursement for its costs to conduct meetings, plan reviews, permit administration, inspection, enforcement and overall implementation of this Chapter.
- 7.4 The issued permit only authorizes the work identified on the approved SWPPP and approved engineered construction plans. Disturbances outside of those identified on those approved plans are in violation of the permit and subject to enforcement actions.
- 7.5 The applicant shall not make field changes or modify the approved activity or plans without prior written authorizations from the Township. The Township may require the applicant to submit revised plans and/or additional information to evaluate the change.
- 7.6 The Township shall retain written records and approved plans.
- 7.7 The issuance of a permit based on approved plans, shall not prevent the Township from thereafter requiring the corrections of errors found in the plans or prevent corrective actions.
- 7.8 The Township may revoke an approved permit if it was issued in error or on the basis of incorrect information supplied or in violation of any provision of this Chapter.

Section 8: Financial Securities

- 8.1 The Township may at its option require a supplemental Developers Agreement to define specific project requirements in addition to the requirements of this Chapter.
- 8.2 If the Township requires a Developers Agreement for the project, a financial security to guarantee the performance of the SWPPP related work as required under this Chapter shall be retained as a separate item from the balance of the project securities. The SWPPP security shall not be used as securities for other activities such as the earthwork, street construction, water, sanitary and storm sewer utilities, site amenities, etc.
- 8.3 The minimum amount of the SWPPP security held shall be based on three thousand (\$3,000) dollars per cumulative acre of land disturbance. For projects that discharge to a Special Waters, the minimum SWPPP security shall be

increased to five thousand (\$5,000) dollars per cumulative acre of land disturbance. The Township may require additional SWPPP securities if needed.

- 8.4 Following a written notice, failure by the applicant to take appropriate action to complete SWPPP related work within the timeframe specified in the NPDES Construction Permit shall be considered sufficient cause for the Township to act against the SWPPP security. The Township shall use the security to finance any corrective or remedial work needed at the applicant's expense including staff time, attorneys' fees.
- 8.5 If at any time the SWPPP security falls below 50% of the required amount, the applicant shall restore the security to the required amount.
- 8.6 When this Chapter has required the plans and calculations to be signed by a registered professional engineer, the applicant's engineer shall provide a written statement to the Township certifying the project is complete and was constructed as per the approved plans in compliance with this Chapter. The Township shall review the project for satisfaction of the permit requirements and issue a Certificate of Completion prior to releasing the SWPPP securities.
- 8.7 At the Township's option, the balance of the SWPPP security may be held until the expiration of the warranty period, if any.

Section 9: Variance

- 9.1 The Township may grant variances from the literal provisions of this Chapter. However, a variance shall only be granted when the terms of the variance are consistent with and in harmony with the general purpose and intent of the Chapter in cases where the strict enforcement of the Chapter will cause undue hardship. Conditions may be imposed on a granted variance to limit its scope to only those portion of the Chapter found to be a hardship.
- 9.2 "Hardship" as used in connection with the granting of a variance means the land in question cannot be put to a reasonable use if used under the conditions of the Chapter; the plight of the applicant is unique to the land and not created by the applicant; and the variance, if granted will not adversely affect the essential character of the locality or other adjacent land. Economic consideration alone shall not constitute a hardship.
- 9.3 Variances must be submitted to the Township in writing and contain sufficient information to describe and support the practical difficulty or particular hardship claimed as the basis for the variance.
- 9.4 Prior to Township Board action, the Township shall submit a copy of the variance request to the North Cannon River Watershed Management Organization (NCRWMO) for review and comment. The review and comment period shall be no

greater than 45 days. The Township must consider the NCRWMO's recommendations before deciding whether to grant the variance to the applicant.

- 9.5 The Township's variance response must be in writing, and include the justification for either granting or denying the requested variance.
- 9.6 The variance shall become void one (1) year after being granted, unless used.
- 9.7 If any of the variance's conditions are violated, the Township may revoke the variance.

Section 10: Enforcement

- 10.1 The Township shall be responsible enforcing this Ordinance.
- 10.2 Any person, firm, or corporation failing to comply with or violating any of these regulations, shall be deemed guilty of a misdemeanor and be subject to a fine or imprisonment or both. All permits issued by the Township, including land use and building permits may be suspended until the violation is resolved. Each day that a separate violation exists shall constitute a separate offense.

Section 11: Right of Entry and Inspection

- 11.1 The applicant shall allow the Township and their authorized representatives, upon presentation of credentials to:
 - A. Enter upon the permitted site for the purpose of obtaining information, examination of records and conducting investigations or surveys.
 - B. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.
 - C. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site.
 - D. Inspect the storm water pollution control measures required by the Township.
 - E. Sample and monitor any items or activities pertaining to permits issued by the Township.

Section 12: Abrogation and Greater Restrictions

- 12.1 The provisions of this Chapter are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail. All other Chapters inconsistent with this Chapter are hereby repealed to the extent of the inconsistency only.

Section 13: Severability

13.1 The provisions of this Chapter are severable, and if any provisions of this Chapter, or application of any provision of this Chapter to any circumstance, are held invalid, the application of such provision to other circumstances, and the remainder of this Chapter must not be affected thereby.

Chapter 2: Water Resources Management Vermillion River Watershed

Section 1	Ordinance	
Section 2	Purpose	
Section 3	Scope and Authority	
3.01	Scope	
3.02	Authority	
3.03	Referral to VRWJPO	
3.04	General Plan Submittal Requirements	
Section 4	Definitions	
4.01	Application and Interpretations	
4.02	Definitions	
Section 5	Stormwater Management	
5.01	Erosion and Sediment Control Plan	
5.02	Stormwater Pollution Prevention Plan (SWPPP)	
5.03	Construction Erosion Control Standards	
5.04	Post Construction Water Quality Standards	
5.05	Runoff Temperature Control Standards	
5.06	Peak Runoff Rate Control Standards	
5.07	Runoff Volume Control Standards	
5.08	Minimum Stormwater Pollution Prevention Measures and Related Inspections	
5.09	Minimum Design Standards for Stormwater Drainage Facilities	
5.10	Minimum Design Standards for Stormwater Wet Detention Facilities	
5.11	Permanent Maintenance of Stormwater Facilities	
5.12	Stormwater Easements and Covenants	
5.13	Waivers	
5.14	Trading	
Section 6	Wetland Management	
6.01	Wetland Alteration Approval Required	
6.02	Wetland Determinations and Delineations	
6.03	Wetland Management Priorities	
6.04	Wetland Alteration/Mitigation Standards	
Section 7	Wetland and Waterway Buffers	

7.01	Wetland and Waterway Protection	
7.02	Buffers Required	
7.03	Structure Setbacks in Lieu of Buffers	
7.04	Wetland Buffer Criteria and Dimensions	
7.05	Major Waterways Buffer Criteria and Dimensions	
7.06	Buffer Standards	
7.07	Exceptions	
7.08	Required Submittals	
Section 8	Floodplain Alteration	
8.01	Floodplain Alteration Approval Required	
8.02	Floodplain Management Priorities	
8.03	Floodplain Management Standards	
8.04	Required Submittals	
Section 9	Drainage Alteration	
9.01	Drainage Alteration Approval Required	
9.02	Drainage System Priorities	
9.03	Drainage Alteration Standards	
9.04	Exceptions	
9.05	Required Submittals	
Section 10	Applications, Permit Fees, Escrows, and Surety	
10.01	Applications	
10.02	Permit Fees	
10.03	Escrow Fund	
10.04	Financial Surety	
Section 11	Appeals and Variances	
Section 12	Amendments	
Section 13	Abrogation and Stricter Provisions	
Section 14	Violations and Penalties	
14.01	Civil Remedy	
14.02	Criminal Remedy	
Section 15	Severability	
Appendix A	Map 1 – Stream Classifications and Buffer Standards	

SECTION 1. ORDINANCE

This chapter shall be known as the “Vermillion River Watershed Water Resources Management Chapter” except as referred to herein as "this Chapter."

SECTION 2. PURPOSE

The purpose of this Chapter is to protect the public health, safety, and welfare through the effective management of water resources in this Community. It is intended that the requirements, regulations, and performance standards of this Chapter will:

- A. Implement the Dakota County Rural Collaborative Local Water Management Plan,
- B. Protect and preserve the function and value of water resources,
- C. Prevent unregulated land disturbance activities which may harm water resources,
- D. Protect wetland functions consistent with the Wetland Conservation Act,
- E. Reduce harmful effects of erosion and sedimentation,
- F. Reduce property damage by seasonal flooding,
- G. Improve surface and groundwater quality.

SECTION 3. SCOPE AND AUTHORITY

3.01 Scope. The terms, standards, and regulations of this Chapter shall apply within the portion of the Community located within the Vermillion River Watershed. No land shall be subdivided or disturbed, except in compliance with the terms, standards, and regulations as set forth herein.

3.02 Authority. The Community shall act as the Local Governmental Unit (LGU) for the permitting and enforcement of this Chapter, except as otherwise specifically provided herein.

3.03 Referral to Vermillion River Watershed Joint Powers Organization (YRWJPO). Prior to the approval of a permit involving any following conditions, the Community must forward land alterations plans to the VRWJPO for review and comment:

- A. Variances from this Chapter that affect surface water or impact surface water/groundwater interactions,
- B. Diversions,
- C. Intercommunity flows (upon request of adjoining communities),
- D. Land disturbance area of 40 acres or more, and
- E. Other proposed activities, as identified in the VRWJPO Plan.

3.04 General Plan Submittal Requirements. In addition to the plan submittal requirements identified by the Community for the various permit applications in this Chapter; any permit submittal requiring review by the VRWJPO in Section 3.03 above shall include two full sets of plans and two reduced sets (maximum 11" X 17") for referral by the Community to the VRWJPO.

SECTION 4. DEFINITIONS

4.01 Application and Interpretation. When not inconsistent with the context, words used in the present tense include the past and future tense, and words in the singular number include the plural number. Masculine gender reference includes feminine. The word "person" includes individual, firm, company, corporation, partnership, trust and other legal entities. The words "shall" and "must" are mandatory, while the words "may" or "should" are permissive.

4.02 Definitions. For the purposes of this Chapter, the following terms, words, and phrases have the meaning Stated below. Terms, words, or phrases not defined in this Chapter shall have a dictionary or customary meaning.

Agricultural Activity - The use of land for the growing and/or production and wholesale distribution of field crops, livestock, and livestock products for the production of income or own use, including but not limited to the following:

1. Field crops, including but not limited to, barley, beans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers
2. Livestock, including but not limited to, dairy and beef cattle, goats, sheep, hogs, horses, poultry, game birds and other animals, including deer, rabbits and mink
3. Livestock products, including but not limited to, milk, butter cheese, eggs, meat, fur, and honey
4. Trees, shrubs, bushes, and plants for wholesale distribution
5. Sod farming
6. Orchards

Agricultural Preserve – A land area created and restricted according to Minnesota Statutes 473H to remain in agricultural use

Alteration or Alter – When used in conjunction with public waters or wetlands, any activity that will change or diminish the course, current or cross section of public waters, public water wetlands, or wetlands.

Applicant – A person or entity, or representative thereof, that applies for a building permit, subdivision approval, or a permit to allow land-disturbing activities. Applicant also means that person's agents; employees, and others acting under this person's direction.

Bankfull Channel Width - The channel width of a stream, creek, or river at bankfull stage.

Bankfull Stage – The water level in a stream channel, creek, or river where the flow just begins to leave the main channel and enter the active floodplain.

Best Management Practices (BMPs) – Techniques proven to be effective in controlling runoff, erosion and sedimentation, including those documented in the Minnesota Construction Site Erosion and Sediment Control Planning Handbook (BWSR, 1988); Protecting Water Quality in Urban Areas (MPCA, 2000); the Minnesota Small Sites BMPS Manual (MPCA 2005); and, other sources as approved by the Vermillion River Watershed Joint Powers Organization (VRWJPO).

Board – The Board of Supervisors or Town Board of a township.

BWSR – Minnesota Board of Water and Soil Resources

Buffer – An area of natural, minimally maintained, vegetated ground cover abutting or surrounding a major waterway, public waters wetland, or wetland.

Council – The City Council of a city.

Community – A city or township as defined in Minnesota Statutes 462.352, subdivision 2, and “the Community” shall mean the community adopting this Chapter.

Community Building Inspector – The Building Inspector or building Official hired by the Community to implement and enforce the provisions of this Chapter.

Community Engineer – The registered professional Engineer hired by the Community to implement and enforce the provisions of this Chapter.

Community – A city or township as defined in Minnesota Statutes 462.352, subdivision 2, and “the Community” shall mean the community adopting this Chapter.

Compensatory Storage – Excavated volume of material below the floodplain elevation required to offset floodplain fill.

County – Dakota County

Dakota SWCD or SWCD – The Dakota County Soil and Water Conservation District.

Dead Storage – The volume of space located below the overflow point of a basin, pond or landlocked basin.

Developer – A person, firm, corporation, sole proprietorship, partnership, state agency, or political subdivision thereof engaged in a subdivision or land disturbance activity.

Development – The construction of any public or private improvement project; infrastructure, structure, street or road, or the subdivision of land.

Easement – A strip of private-owned land which is legally described and encumbered for use by another party or public entity for a specific purpose described in an easement document, recorded by Dakota County.

Erosion - The wearing away of the ground surface as a result of wind, flowing water, ice movement or land disturbing activities.

Erosion and Sediment Control Plan – A plan of BMPs or equivalent measures designed to control runoff and erosion and to retain or control sediment on land during the period of land disturbing activities with standards.

Excavation- The artificial removal of soil or other earth material.

Fill – The deposit of soil or other materials by artificial means.

Filtration – A process by which stormwater runoff is captured, temporarily stored, and routed through a filter bed, vegetated strip, or buffer to improve water quality and slow down stormwater runoff.

Floodplain – The area adjacent to a waterbody that is inundated during a 100-year flood.

Floodplain Storage – The volume of space available for flood waters within the floodplain.

Fragmentation – The breaking up of an organism's habitat into discontinuous chunks.

Green Acres – Real property or real estate that qualifies as agricultural property having agricultural use under the Minnesota Agricultural Property Tax Law, Minnesota Statutes Section 273.111.

Hydric Soil - A soil that formed under conditions of saturation, flooding or ponding long enough during the growing season to develop anaerobic conditions in the upper horizon.

Hydrophytic Vegetation – Plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

Infiltration – A stormwater retention method for the purpose of reducing the volume of stormwater runoff by transmitting water into the ground through the earth's surface.

Impervious Surface – A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, roads, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

Infrastructure - The system of public works for a county, state, or municipality including, but not limited to, structures, roads, bridges, culverts, sidewalks, stormwater, management facilities, conveyance systems and pipes, pump stations, sanitary sewers and interceptors, hydraulic structures, permanent erosion control and stream bank protection measures, water lines, gas lines, electrical lines and associated facilities, and phone lines and supporting facilities.

Land Disturbing Activity (Land Disturbance) – Any change of the land surface, including removing vegetative cover, excavation, fill, grading, stockpiling soil, and the construction of any structure that may cause or contribute to erosion or the movement of sediment into waterbodies. For the purposes of this Chapter, a land disturbing activity does not include agricultural activities.

Landlocked Basin – A water basin one acre or more in size that does not have a natural outlet at or below the existing 100-year flood elevation as determined by the 100-year storm event.

Local Governmental Unit (LGU) – Municipalities located wholly or partly within the VRWJPO with adopted local water management plans and chapters approved by the VRWJPO, and Dakota County within its area of floodplain jurisdiction.

Lot – A parcel of land platted or described by metes and bounds, registered land survey, or other accepted means and separated from other parcels or portions by said description, for the purpose of sale, lease, or separation thereof, as recorded by Dakota County.

Lot of Record – Any lot that legally existed prior to the adoption date of this Chapter.

Major Waterways – Intermittent and perennial streams as shown on Map 1 attached to this Chapter.

Meander – A sinuous bend of a river, stream, or creek.

Meander Belt – The area between lines drawn tangential to the extreme limits of fully developed meanders.

Minimum Impact Alignment - Is the alignment for a proposed road, street, utility, path or access that creates the smallest area of impact to a buffer, waterway, or floodplain for activities that cross a buffer, waterway, or floodplain the minimum impact alignment is one that crosses perpendicular, or near perpendicular, to the longitudinal orientation of the buffer, waterway, of floodplain as reasonable to serve to intended purpose of the improvement.

Municipality – A city or township.

Native Vegetation – Plant species that are indigenous to Minnesota, or that expand their range into Minnesota without being intentionally or unintentionally introduced by human activity, and are classified as native in the Minnesota Plant Database (Minnesota DNR, 2002).

Noxious Weeds – Any plant listed as a prohibited, restricted or secondary weed under Minnesota Rule Chapter 1505.

Ordinary High Water Level (OHWD) - The boundary of water basins, watercourses, public waters, and public waters wetlands and:

- a. The ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominately aquatic to predominately terrestrial;
- b. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and
- c. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

Outlot – A platted parcel of land, designated alphanumerically as an outlot (for example – Outlot A), as recorded by Dakota County, and. used to designate one of the following: land that is part of the subdivision but is to be subdivided into lots and blocks at a later date; land that is to be used for a specific purpose as designated in a development agreement or other agreement between the LGU and the developer; or for a public purpose that may have restricted uses, such as a park, stormwater pond, or buffer.

Plat – The drawing or map of a subdivision prepared for filing of record pursuant to Minnesota Statutes Chapter 505, as amended.

Pre-development Condition – The land use on a site that exists immediately prior to a proposed alteration.

Public Waters – Public Waters means:

- a. Water basins assigned a shoreland management classification by the commissioner of the Minnesota Department of Natural Resources under Minnesota Statutes Sections 103F.201 to 103F.202,
- b. Waters of the state that have been finally determined to be public waters or navigable waters by a court of competent jurisdiction,
- c. Meandered lakes, excluding lakes that have been legally drained,
- d. Water basins previously designated by the commissioner of the Minnesota Department of Natural Resources for management for a specific purpose such as trout lakes and game lakes pursuant to applicable laws,
- e. Water basins designated as scientific and natural areas under Minnesota Statutes Section 84.033,
- f. Water basins located within and totally surrounded by publicly owned lands;
- g. Water basins where the state of Minnesota or the federal government holds title to any of the beds or shores, unless the owner declares that the water is not necessary for the purposes of the public ownership,
- h. Water basins where there is a publicly owned and controlled access that is intended to provide for public access to the water basin,
- i. Natural and altered watercourses with a total drainage area greater than two square miles,
- j. Natural and altered water resources designated by the commissioner of the Minnesota Department of Natural Resources as trout streams, and
- k. Public waters wetlands, unless the statute expressly states otherwise.

Public Waters Wetland – All types 3, 4, and 5 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), not included within the definition of public waters, that are ten or more acres in size in unincorporated areas or 2-1/2 or more acres in incorporated areas.

Redevelopment – The rebuilding, repair, or alteration of a structure, land surface, road or street, or facility.

Right-Of-Way (ROW) – A strip of land occupied or intended to be occupied by a public street and acquired in fee title, or by registration, or by dedication for public use by the recording of a plat, and including railroad corridors owned in fee title.

Runoff – Rainfall, snowmelt or irrigation water flowing over the ground surface.

Sediment – Soil or other surficial material transported by surface water as a product of erosion.

Sedimentation – The process or action of depositing sediment.

Sinuuous – The curving patterns of a river, stream, or creek.

Soil – The unconsolidated mineral and organic material on the immediate surface of the earth. For the purposes of this Chapter, stockpiles of sand gravel, aggregate, concrete or bituminous materials are not considered "soil" stockpiles.

Stewardship Plan – A conservation plan completed for agricultural land and activities accepted by the Dakota Soil and Water Conservation District or the VRWJPO.

Stormwater – Under Minnesota Rule 1077.0105, subpart 41b, stormwater means "precipitation runoff, stormwater runoff, snow melt runoff, and any other surface runoff and drainage." According to the Federal Code of Regulations under 40 CFR 122.26 [b][13], stormwater means "stormwater runoff, snow melt runoff and surface and drainage." Stormwater does not include construction site dewatering.

Stream Type – One of numerous stream types based on morphology defined by Rogen, D., 1996, Applied River Morphology.

Stormwater Pollution Prevention Plan (SWPPP) – A plan for stormwater discharge that includes erosion prevention measures and sediment controls that, when implemented, will decrease soil erosion on a parcel of land and decrease off-site nonpoint pollution.

Structure – Anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures, earthen structures, water and storage systems, drainage facilities and parking lots.

Subdivision - The separation of an area, lot, or tract of land under single ownership into two or more parcels, tracts, or lots.

VRWJPO – Vermillion River Watershed Joint Powers Organization.

Wet Detention Facility – A permanent man-made structure for the temporary storage of runoff that contains a permanent pool of water.

Wetland – Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

- A. Have a predominance of hydric soils,
- B. Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, and
- C. Under normal circumstances support a prevalence of such vegetation.

Wetland Conservation Act (WCA) – The Minnesota Wetland Conservation Act of 1991, as amended.

Wetland Type – A wetland type classified according to Wetlands of the United States, U.S. Fish and Wildlife Service Circular 39 (1971 edition), summarized as follows:

- A. "Type 1 wetlands" are seasonally flooded basins or flats in which soil is covered with water or is waterlogged during variable seasonal periods but usually is well-drained during much of the growing season. Type 1 wetlands are located in depressions and in overflow bottomlands along watercourses, and in which vegetation varies greatly according to season and duration of flooding and includes bottomland hardwoods as well as herbaceous growths.
- B. "Type 2 wetlands" are inland fresh meadows in which soil is usually without standing water during most of the growing season but is waterlogged within at least a few inches of surface. Vegetation includes grasses, sedges, rushes, and various broad-leaved plants. Meadows may fill shallow basins, sloughs, or farmland sags, or these meadows may border shallow marshes on the landward side.
- C. "Type 3 wetlands" are inland shallow fresh marshes in which soil is usually waterlogged early during a growing season and often covered with as much as six inches or more of water. Vegetation includes grasses, bulrushes, spikerushes, and various other marsh plants such as cattails, arrowheads, pickerelweed, and smartweeds. These marshes may nearly fill shallow lake basins or sloughs, or may border deep marshes on the landward side and are also common as seep areas on integrated lands.
- D. "Type 4 wetlands" are inland deep fresh marshes in which soil is usually covered with six inches to three feet or more of water during the growing season. Vegetation includes cattails, reeds, bulrushes, spikerushes and wild rice. In open areas, pondweeds, naiads, coontail, water milfoils, waterweeds, duckweeds, water lilies, or spatterdocks may occur. These deep marshes may completely fill shallow lake basins, potholes, limestone sinks, and sloughs, or they may border open water in such depressions.
- E. "Type 5 wetlands" are inland open fresh water, shallow ponds, and reservoirs in which water is usually less than ten feet deep and is fringed by a border of emergent vegetation similar to open areas of type 4 wetland.
- F. "Type 6 wetlands" are shrub swamps in which soil is usually waterlogged during growing season and is often covered with as much as six inches of water. Vegetation includes alders, willows, buttonbush, dogwoods, and swamp-privet. This type occurs mostly along sluggish streams and occasionally on floodplains.
- G. "Type 7 wetlands" are wooded swamps in which soil is waterlogged at least to within a few inches of the surface during growing season and is often covered with as much as one foot of water. This type occurs mostly along sluggish streams, on floodplains, on flat uplands, and in shallow basins. Trees include tamarack arborvitae, black spruce, balsam, red maple,

and black ash. Northern evergreen swamps usually have a thick ground cover of mosses. Deciduous swamps frequently support beds of duckweeds and smartweeds.

- H. "Type 8 wetlands" are bogs in which soil is usually waterlogged and supports a spongy covering of mosses. This type occurs mostly in basins on flat uplands, and along sluggish streams. Vegetation is woody or herbaceous or both. Typical plants are heath shrubs, sphagnum moss, and sedges. In the north, leatherleaf, Labrador-tea, cranberries, carex, and cotton grass are often present. Scattered, often stunted, black spruce and tamarack may occur.

Section 5. Stormwater Management

5.01 Erosion and Sedimentation Control Plan. No person shall commence a land disturbing activity under one acre in area, unless exempted, without submitting an Erosion and Sedimentation Control Plan to the Community Engineer or the community Building Inspector. No building permit or land disturbing activity shall be authorized until the Community approves this plan. At a minimum the erosion prevention and sedimentation standards must conform with Best Management Practices (BMPs) defined in this Chapter. Exemptions for preparing an Erosion and Sedimentation Control Plan include the following:

- A. Minor land disturbing activities such as home gardens, repairs, and maintenance work.
- B. Construction, installation, and maintenance of individual sewage treatment systems, other than those on steep slopes (e.g., 6 percent or greater), or on riparian lots within a Shoreland District.
- C. Construction, installation and maintenance of public utility lines or individual service connection unless the activity disturbs more than 1 acre, in which case the requirements in section 5.02 apply.
- D. A land disturbing activity that creates less than 1 acre of new impervious surface and does not cause off-site erosion, sedimentation, flooding or other damage, and disturbs:
 - 1. In a Shoreland District, an area less than 10,000 square feet or less than 100 linear feet of shoreline, or
 - 2. Outside of a Shoreland District, an area of less than 1 acre.
- E. Installation of any fence, sign telephone or electric poles, or other kinds of posts or poles.
- F. Emergency activity necessary to protect life or prevent substantial harm to persons or property.
- G. Minor wetland impacts that have received a de minimus "certificate of exemption or no loss" determination by the LGU administering the Wetland Conservation Act, as amended.
- H. All maintenance, repair, resurfacing, and reconditioning activities of existing road, bridge, and highway systems, which do not involve land disturbing activities outside of the existing roadway surfaces.

- I. Construction of any structure on an individual lot in a subdivision with an approved Stormwater Pollution Prevention Plan (SWPPP), as long as any land disturbing and stormwater management activity complies with the approved plan.
- J. Development or redevelopment of, or construction of a structure on, an individual lot with a land disturbing activity that does not cause off-site erosion, sedimentation, flooding, or other damage, and creates less than 1 acre of cumulative impervious surface.

5.02 Stormwater Pollution Prevention Plan (SWPPP). No person shall commence a land disturbing activity one acre or more in area without submitting an SWPPP to the Community Engineer for review and approval. No building permit or land disturbing activity shall be authorized until the Community Engineer approves this plan and a permit is issued by the Minnesota Pollution Control Agency (MPCA).

- A. The SWPPP shall contain the following general information:
 1. The name and (and) address of the applicant and the location of the activity. The property boundary and lot lines.
 2. Project narrative including the nature and purpose of the land disturbing activity and the amount of grading, utilities, and building construction involved.
 3. Phasing of construction including time frames and schedules for the project's various aspects.
 4. A map of the existing site conditions showing: existing topography, property information, steep slopes, existing drainage boundaries and patterns, type of soils, impervious surfaces, waterways, wetlands, vegetative cover, 100-year floodplain boundaries, locations of existing and future buffer strips and labeling the portions of the site that are within trout stream or Outstanding Resource Value Water watersheds. This information should extend a minimum of 300-feet beyond the property lines.
 5. A site construction plan that includes the location and limits of the proposed land disturbing activities, stockpile locations, erosion and sediment control measures, construction schedule, and the for the maintenance and inspections of the stormwater pollution control measures.
 6. All surface waters and existing wetlands which will receive stormwater from the construction site, during or after construction. Where these sites may not fit on the plan sheet, they must be identified with an arrow, indicating both direction and distance to the surface water or wetland.
 7. Designate the site's areas that have the potential for serious erosion problems.
 8. Erosion and sediment control measures: the methods that will be used to control erosion and sedimentation on the site, both

during and after the construction process.

9. Permanent stabilization: how the site will be stabilized after construction is completed, including specifications, time frames and/or schedules.
10. Location of rock construction entrances.
11. Calculations: any that were made for the design of such items as sediment basins, wet detention basins, diversions, waterways, infiltration zones, pipe networks, and other applicable practices.

B. The SWPPP shall address the following general criteria:

1. Stabilizing all exposed soils and soil stockpiles and the related time frame or schedule.
2. Establishing permanent vegetation and the related time frame or schedule.
3. Scheduling for erosion and sediment control practices.
4. Where permanent and temporary sedimentation basins will be located.
5. Engineering the construction and stabilization of steep slopes.
6. Measures for controlling the quality and quantity of storm water leaving a site.
7. Stabilizing all waterways and outlets.
8. Protecting storm sewers from the entrance of sediment.
9. What precautions will be taken to contain sediment when working in or crossing water bodies.
10. Re-stabilizing utility construction areas as soon as possible.
11. Protecting paved roads from sediment and mud brought in from access routes.
12. Disposing of temporary erosion and sediment control measures.
13. How and when the temporary and permanent erosion and sediment control practices will be maintained.
14. How collected sediment and floating debris will be disposed of.

C. The following additional information shall be submitted along with the SWPPP.

1. Drainage maps for the existing and proposed conditions.
2. A detailed breakdown of existing and proposed curve numbers.
3. Map identifying soil types.
4. A drainage report, certified by a professional engineer, identifying existing and proposed peak runoff rates and volumes flowing off-site to adjacent watersheds for the 2, 10 and 100-year events.
5. All calculations and information used in determining peak discharge rates and volumes utilizing the Soil Conservation Service TR-55/TR-20, or other approved programs/models.

6. First floor and lowest opening elevations for all existing and proposed buildings.
 7. Delineation of existing wetlands, as defined in the Wetland Conservation Act.
 8. Lakes, streams, shoreland, and floodplains shall also be shown on the plans.
 9. Locations of the normal and high water elevations for all water bodies on the plans.
 10. Locations of any well locations within 500 feet of the site
 11. Additional details required in the VRWJPO Rules for any land disturbance required to be referred to the VRWJPO for review.
- D. The following stormwater management practices must be investigated in developing the stormwater management part of the SWPPP in the following descending order of preference:
1. Protect and preserve as much natural or vegetated area on the site as possible minimizing impervious surfaces, and directing runoff to vegetated areas rather than to adjoining streets, storm sewers and ditches,
 2. Flow attenuation of treated stormwater by use of open vegetated swales and natural depressions,
 3. Stormwater detention/retention facilities (including on-site filtration/infiltration facilities if required by the Community), and
 4. A combination of successive practices may be used to achieve the applicable minimum control requirements. The applicant shall provide justification for the method selected.
- E. All modification or amendments to a SWPPP must be reviewed and approved by the Community Engineer and the MPCA.

5.03 Construction Erosion Control Standards. Land disturbances shall be governed by the following minimum construction erosion control standards:

- A. Erosion and sediment control measures shall be consistent with Best Management Practices (BMPs), and shall be sufficient to retain sediment on site.
- B. All temporary erosion and sediment controls shall be installed on all down gradient perimeters before commencing the land disturbing activity, and left in place and maintained as needed until removed per Community approval after the site had been stabilized. All permanent erosion control measures shall be installed and operational per the design and as required by the Community prior to the removal of temporary controls.
- C. Erosion and sediment controls shall meet the standards for the General Permit Authorization to Discharge Storm Water Associated With

Construction Activity Under the National Pollutant Discharge Elimination System/State Disposal System Permit Program Permit MN R100001 (NPDES General construction Permit) Issued by the Minnesota Pollutant Control Agency, August 1, 2008, as amended for projects disturbing more than 1 acre.

- D. Final stabilization of the site must be completed in accordance with the NPDES General Construction Permit requirements.
- E. All on-site stormwater conveyance channels shall be designed and constructed to withstand the expected velocity of flow from a 10-year, 24-hour storm without erosion.
- F. If the activity creates more than 1 acre of disturbed area, and the activity is taking place on a site where soils are currently disturbed (e.g., a tilled agricultural site that is being developed), areas that will not be graded as part of the development and areas that will not be stabilized according to the timeframes specified in the NPDES General Construction permit Part IV.B.S, shall be seeded with a temporary or permanent cover before commencing the proposed land disturbing activity.
- G. The Community may at its discretion use turbidity measurements as an indicator of potential non-compliance with the construction erosion control standards. If Nephelometric Turbidity Unit (NTU) measurements taken at a point of site stormwater discharge exceeds 50 NTUs (25 NTU for trout stream), a construction erosion control inspection of the site shall be completed by the Community. Enforcement procedures and timeframes to correct non-compliant conditions shall be as specified in this Chapter and the NPDES General Construction Permit. Exceedance of the turbidity indicator alone shall not constitute non-compliance. Sampling and analysis of turbidity shall be completed as follows:
 - 1. Samples should be taken from the horizontal and vertical center of the outflow, and care should be taken to avoid stirring bottom sediments.
 - 2. A written narrative of site-specific analytical methods and conditions used to collect, handle, and analyze the samples will be completed and kept on file, and a chain-of-custody record kept if the analysis is performed at a laboratory.
 - 3. All sampling shall be collected by "grab samples" and the analysis of these samples must be conducted in accordance with methodology and test procedures established by EPA method 180.1 or Standard Method 2130B.
 - 4. Other sampling protocol include:
 - a. Sample containers should be labeled prior to sample collection.
 - b. Samples should be well mixed before transferring to a secondary container.
 - c. Sample jars should be cleaned thoroughly to avoid contamination.

- d. Sampling and analysis of receiving waters or outfall below the minimum detection limit should be reported at the detection limit.

5.04 Post Construction Water Quality Standards. Land disturbances shall be governed by the following minimum post construction water quality standards.

- A. Post construction stormwater runoff quality measures shall meet the standard for the General Permit Authorization to Discharge Storm Water Associate With Construction Activity Under the National Pollutant Discharge Elimination System/State Disposal System Permit Program Permit MN R100001 (NPDES General Construction Permit) issued by the Minnesota Pollution Control Agency, August 1 2003, as amended; except where more specific requirements are provided in paragraphs B, C, D, and E below.
- B. Infiltration/filtration options, and Credits described under Runoff Volume Control Standard B, are the preferred approach to satisfying the water quality treatment requirements of the NPDES General Construction Permit in areas that drain to the trout stream portions of the Vermillion River and its tributaries where such areas do not first drain to a waterbody with 10 or more acres of open water.
- C. Ponds with permanent wet pools allowed in areas tributary to the trout stream portions of the Vermillion River and its tributaries where such areas do not first drain to a waterbody with 10 or more acres of open water, if the applicant demonstrates:
 1. No net increase in the temperature of the discharge for the 2-year, 24-hour event with the use of alternative technologies and has met the Volume control requirements of these Standards; or
 2. That the wet pond is designed for zero discharge for the 2-year, 24-hour storm; or
 3. That the Volume Control requirements of these Standards are met and the following measures are used to the extent practical in order of decreasing preference:
 - a. The wet pond is designed with a combination of measures such as shading, filtered bottom withdrawal, vegetated swale discharges, or constructed wetland treatment cells that will limit temperature increases.
 - b. Additional volume control measures and credits are used beyond that required to meet the Runoff Volume Standards as a means of limiting the frequency and duration of discharges from the pond.
- D. The water quality control volumes necessary to meet the NPDES General Construction Permit that are satisfied using infiltration or filtration technologies (filtration only on Type C and D soils) can count toward the Volume Control requirements of this Chapter.

- E. Ponds with overflows or outlets located below the seasonally high water table are allowed only where there is a reasonable need for such an outlet to control seepage damage to existing structures.
- F. Redevelopment projects are required to incorporate water quality BMPs to the extent practical.

5.05 Runoff Temperature control Standards. Land disturbances shall be governed by the following minimum runoff temperature control standards.

- A. Post construction runoff criteria for controlling temperature increases relies on the establishment of buffers as specified in Section 7; the prioritization of temperature sensitive BMPs such as infiltration and filtration, and the designation of temperature sensitive wet pond design approaches in the Post Construction Water Standards above; and the control of runoff volume increases and the use of credits with the Runoff Volume Control Standards below. No additional specific temperature criteria are incorporated since these standards emphasize approaches sensitive to runoff temperature. Since these other standards allow flexibility, and in some cases waivers, permit applications involving the creation of one or more acres of new impervious surface in the trout stream portions of the Vermillion River and its tributaries, where such areas do not first drain to a waterbody with 10 or more acres of open water, must include a narrative description of the temperature sensitive practices incorporated.
- B. The Community may require additional runoff temperature BMPs, if the Community finds that the site design does not minimize the potential for runoff temperature increases.

5.06 Peak Runoff Rate Control Standards. Land disturbances shall be governed by the following minimum runoff rate control standards.

- A. A hydrograph method based on sound hydrologic theory will be used to analyze runoff for the design or analysis of flows and water levels.
- B. Runoff rates for proposed activities, and development shall
 1. Not exceed existing runoff rates for the 1-year, and 10-year critical duration storm events.
 2. Be implemented such that peak runoff rate controls keep future peak flood flows for the Vermillion River 100-year, 4-day event from increasing above existing conditions peak flows.
 3. Not exceed the existing rate for the 100-year critical duration storm event or the VRWJPO Intercommunity Flow study goal flow value for the Community, whichever is more restrictive.
- C. Detention basins with permanent wet pools are allowed in area's tributary to the trout stream portions of the Vermillion River provided Post Construction Water Quality Standard 5.04 C. above is met.

5.07 Runoff Volume Control Standards. Land disturbances shall be governed by the following minimum runoff volume control standards.

- A. Development that creates one acre or more of new impervious surface must incorporate volume control practices into the design sufficient to prevent an increase in the runoff volume for the 2-year 24-hour storm above pre-development conditions, unless waived in accordance with Runoff Volume Control Standard G. below. Determination of the necessary control volume to achieve this standard shall be calculated on a site-by-site basis for each individual proposal.
- B. Credits for site design are the preferred methods for meeting the Volume Control standards and shall be discussed and approved by the Community Engineer prior to the design of infiltration or filtration facilities. Such credits will be considered on a case by case basis and must be consistent with any credit system established by the VRWJPO. Potential credits for Volume Control include:
 - 1. Natural area conservation credit that gives a credit for the net runoff volume conserved compared to how the property could have been developed.
 - 2. Rooftop disconnection credit that allows rooftop areas to not be counted as impervious area in the volume control calculation if roof drainage is direct to pervious areas.
 - 3. Non-rooftop disconnection credit that allows small developed areas to not be counted for the volume control calculation if these areas are directed as sheet flow to pervious areas.
 - 4. Permeable paver disconnection credit that allows some fraction or percentage of the surface area covered by permeable pavers to not be counted as developed area.
 - 5. Grass channel credits that allows some credit for the use of grassed channels instead of lined channels or underground pipe.
 - 6. Soil amendment credit that allows for a percentage reduction of impervious surface used in the volume control calculation for each acre of soil area amended. Amendment would include deep or chisel plowing and the addition of an amendment such as compost.
 - 7. Green rooftop credit that allows some fraction or percentage of the area of green rooftop to not be counted as impervious surface in the volume control calculation.
 - 8. Forest/Prairie cover credit that allows some percentage reduction of impervious surface used in the volume control calculation for each acre of new forest or prairie created.
 - 9. Reuse of stormwater for irrigation credit that allows for a fraction of runoff volume requirement reduction where stormwater from cisterns or wet ponds is preferentially used for irrigation instead of potable water supplies.
- C. The water quality control volumes necessary to meet the NPDES General Construction Permit that are satisfied using infiltration or filtration

technologies (filtration only on Type C and D soils) can count toward the Volume Control requirements of this Chapter.

- D. When using infiltration for volume control:
 - 1. Infiltration volumes and facility sizes shall be calculated using one of the three methods below:
 - a. Using the following hydrological soil group classification and saturated infiltration rate:

Hydrologic Soil Type	Infiltration Rate	Soil Texture
A	0.30 inches/hour	Sand, loamy sand, or sandy loam
B	0.15 inches/hour	Silt, loam, or loam
C	0.07 inches/hour	Clay loam, silty clay loam, silty clay, or clay

- b. Using documented site specific infiltration or hydraulic conductivity measurements completed by a licensed soil scientist or engineer, or
 - c. Using the method provided in the Minnesota Stormwater Manual Volume 2 (MPCA 2005) Chapter 12-INF.
 - 2. The design shall consider the infiltration rates of the least permeable horizon within the first five feet below the bottom of the infiltration practice.
 - 3. The system shall be capable of infiltrating the required volume in 72 hours.
- E. Constructed infiltration facilities, such as infiltration basins and trenches:
 - 1. Can only be used if there is pretreatment of stormwater runoff designed to protect the infiltration system from clogging with sediment and to protect groundwater quality,
 - 2. Cannot be used within 400 feet of a municipal or other community supply well or within 100 feet of a private well unless specifically allowed by an approved wellhead protection plan.
 - 3. Cannot be used for runoff from fueling and vehicle maintenance areas and industrial areas with exposed significant materials,
 - 4. Cannot be used on areas with less than 3 feet vertical separation from the bottom of the infiltration system and the seasonal high ground water table, and
 - 5. Cannot be used in Type D soils.
- F. Infiltration areas must be fenced or otherwise protected from disturbance before the land disturbing activity starts.
- G. Volume control amounts may be waived by the LGU or the VRWJPO for sites with predominately Type C and D soils, or where a shallow water table

prevents construction of infiltration systems, provided the following are met in order of decreasing preference:\

1. Credits and site design practices to minimize the creation of connected impervious surfaces are used to the extent practical.
 2. Underdrains are used to promote filtration instead of infiltration.
- H. Vegetation used in conjunction with infiltration systems must be tolerant of urban pollutant, and the range of soil moisture conditions anticipated.

5.08 Minimum Stormwater Pollution Prevention Measures and Related Inspections.

These minimum control measures are required where bare soil is exposed. Due to the diversity of individual construction sites, each site will be individually evaluated. Where additional control measures are needed, they will be specified at the discretion of the Community Engineer. The Community Engineer reserves the right to receive comments from the Dakota County Soil and Water Conservation District (SWCD). The Community will determine what action is necessary to prevent excessive erosion from occurring on the site. If the following conditions are not met as outlined below, the MPCA will be notified for lack of compliance, fines may be levied, and prosecution• for non-compliance with this Chapter will be pursued

- A. All grading plans and building site surveys must be reviewed by the Community for effectiveness of erosion control measures in the context of the site topography and drainage.
- B. The stormwater pollution prevention plan's measures, the limit of disturbed surface and the location of buffer areas shall be marked on the approved grading plan, and identified with flags, stakes, signs etc. on the development site before work begins.
- C. Sediment control measures must be properly installed by the builder before construction activity begins. Such structures may be adjusted during dry weather to accommodate short-term activities, such as those that require the passage of very large vehicles. As soon as this activity is finished or before rainfall, the erosion and sediment control structures must be returned to the configuration specified by the Community. Sufficient erosion control structures must be in place before a footing inspection will be done.
- D. Diversion of channeled runoff around disturbed areas, if practical, or the protection of the channel.
- E. If a stormwater management plan involves directing some or all of the site's runoff, the applicant or his designated representative shall obtain from adjacent property owners any necessary easements or other property interests concerning the flowing of such water.
- F. Land disturbing activities should be phased or scheduled to minimize the amount of exposed soil at any time to lessen the potential for erosion and sedimentation.
- G. The applicant is required to obtain a National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) construction stormwater permit from the Minnesota Pollution Control Agency for any project that disturbs 1 acre or more of land.

- H. Sediment basins related to impervious surface area. Where a project's ultimate development replaces surface vegetation with 1 or more acres of cumulative impervious surface, and all runoff has not been accounted for in the Community's existing stormwater management plan or practice, the runoff must be discharged to a wet sedimentation basin prior to entering waters of the state.
- I. Generally, sufficient silt fence or other sediment control device will be required to hold all sheet flow runoff generated at an individual site, until it can either infiltrate or seep through the device's pores.
- J. Temporary stockpiling of thirty (30) or more cubic yards of excess soil on any lot or other vacant area will not be allowed without issuance of a grading permit for the earth moving activity in question.
- K. For soil stockpiles greater than 10 cubic yards the toe of the pile must be more than 25 feet from a road, drainage channel or stormwater inlet. If such stockpiles will be left for more than 7 days; they must be stabilized with mulch, vegetation tarps or other means. If left for less than 7 days, erosion from stockpiles must be controlled with silt fences or rock check dams.
 - 1. If for any reason a soil stockpile of any size is located closer than 25 feet from a road, drainage channel or stormwater inlet, and will be left for more than 7 days, it must be covered with tarps or controlled in some other manner.
- L. All sand, gravel or other mining operations taking place on the development site shall have a National Pollutant Discharge Elimination System General Stormwater permit for industrial activities and all required Minnesota Department of Natural Resources permits.
- M. Temporary rock construction entrances will be required wherever vehicles enter and exit a site, according to specifications required by the Community Engineer. Slash mulch, 4"-10", may be used in lieu of rock if approved by the Community Engineer.
- N. Parking is prohibited on all bare lots and all temporary construction entrances, except where street parking is not available.
- O. Streets must be cleaned and swept whenever tracking of sediments occurs and before sites are left idle for weekends and holidays. Regular sweeping must occur on paved roads at least once a week, unless notified by the Community, in which case sweeping will need to occur within 24 hours of being notified by the Community.
- P. Water (impacted by the construction activity) removed from the site by pumping must be treated by temporary sedimentation basins, geotextile filters, grit chambers, sand filters, up-flow chambers, hydro-cyclones, swirl concentrators or other appropriate controls. Such water shall not be discharged in a manner that causes erosion or flooding of the site, receiving channels, adjacent property or a wetland.
- Q. All storm inlets must be protected during construction until control measures are in place with either silt fence or an equivalent barrier that meets accepted design criteria, standards and specifications as contained in the

- latest version of the Minnesota Pollution Control Agency's publication, "Minnesota Stormwater Manual" or other approved publication.
- R. Catch Basins and sediment ponds must be cleaned prior to acceptance by the Community.
 - S. Roof drain leaders. All newly constructed and reconstructed buildings must route roof drain leaders to pervious areas (not natural wetlands) where the runoff can infiltrate. The discharge rate shall be controlled so that no erosion occurs in the pervious areas.
 - T. At a minimum, SWPPP inspections shall be done weekly and within 24 hours after a rainfall event greater than 0.5 inches in 24 hours by the applicant or the applicant's representative.
 - U. Follow-up inspections must be performed by the Community on a regular basis to ensure that erosion and sediment control measures are properly installed and maintained. In all cases the inspectors will attempt to work with the developer and/or builder to maintain proper erosion and sediment control at all sites.
 - 1. In cases where cooperation is withheld, construction stop orders may be issued by the Community, until erosion and sediment control measures meet specifications. A second erosion and sediment control/grading inspection must then be scheduled and passed before the final inspection will be done.
 - V. Removal of more than 1 acre of topsoil shall not be done, unless written permission is given by the Community Engineer. Excessive removal of topsoil can cause significant soil erosion problems.
 - W. Inspection and maintenance. All stormwater pollution control management facilities must be designed to minimize the need for maintenance, to provide easy vehicle and personnel access for maintenance purposes and be structurally sound. These facilities must have a plan of operation and maintenance that ensures continued effective removal of the pollutants carried in stormwater runoff. The NPDES permittee shall inspect all stormwater management facilities during construction in accordance with the NPDES permit requirements. A copy of the inspection records shall be given to the Community. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the stormwater management facilities for inspection and maintenance purpose.

5.09 Minimum Design Standards for Stormwater Drainage Facilities. Stormwater drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The system shall insure drainage at all points along streets, and provide positive drainage away from buildings. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to protect against surface erosion and siltation of surface water, and to prevent the discharge of excess runoff onto adjacent properties.

- A. All storm sewers shall be designed to convey the 10-year critical duration storm event according to methods of accepted engineering practice subject to approval by the Community Engineer.
- B. A map identifying all of the individual drainage areas, and storm sewer design sheets identifying drainage area, runoff coefficient, time of concentration, intensity, runoff, slope, diameter, length, and capacity of the pipe, velocity within the pipe and invert elevations shall be submitted with the plans. All normal and high water levels of existing and proposed stormwater ponds, wetlands, lakes, streams, and rivers shall be included on the plans.
- C. If required by the Community Engineer, 100-feet of 4-inch perforated drain tile shall be installed at all low point catch basins located within Community right-of-way. The drain tile shall be connected to proposed storm sewer facilities.
- D. Catch basins shall have a minimum depth of 3.5 feet.

5.10 Minimum Design Standards for Stormwater Wet Detention Facilities. All stormwater detention basins that do not discharge directly into the Vermillion River or its tributaries shall be designed in accordance with the Walker Method for Wet Detention Basins. The following standards shall be utilized.

- A. The permanent pool shall be equal to or greater than the runoff from a 2.5-inch rainfall for fully developed watershed conditions.
- B. The average pond depth obtained by dividing the permanent pool volume by the permanent pool area shall be a minimum of 3 feet.
- C. Side slopes shall be a maximum of 3:1 above the normal water level (NWL) and a maximum of 3:1 below the NWL with a 10:1 bench located below the NWL.
- D. Pond inlets and outlets shall be located so as not to encourage plug flow.
- E. A 20-foot minimum easement adjacent to a public road shall be provided to all ponds so Community maintenance crews have access to the pond.
- F. Concrete outlet structures shall be provided for all stormwater basins in accordance with Community standards or a standard approved by the Community Engineer.
- G. The lowest opening for all structures adjacent to stormwater ponds, wetlands, lakes or other waterways shall be at least 3 feet above the 100-year high water elevation.
- H. The lowest opening in any structure adjacent to stormwater ponds, wetlands, lakes or other water ways shall be at least 2 feet above the emergency overflow elevation. A minimum freeboard of 1 foot is required between the 100-year flood elevation and the emergency overflow elevation.
- I. The minimum floor elevations for all structures adjacent to land-locked stormwater ponds, wetlands, lakes or other water ways shall be at least 2 feet above the back to back 100-year flood elevation.

- J. A phasing plan for the construction of new and/or temporary detention basins shall be submitted to the Community Engineer for approval. Detention basins shall be constructed prior to other construction. The detention basins shall be cleared of sediment by the contractor at the end of the project. Infiltration basins shall not be constructed until the end of the project to eliminate unnecessary compaction of the soils.

5.11 Permanent Maintenance of Stormwater Facilities. All stormwater management structures and facilities shall be maintained in perpetuity to assure that the structures and facilities function as originally designed. The responsibility for maintenance shall be assumed either by the Community with jurisdiction over the structures and facilities, or by the applicant entering into a maintenance agreement with the LGU.

5.12 Stormwater Easements and Covenants. The applicant for stormwater permits shall establish, in a form acceptable to the Community, temporary and permanent drainage and utility easements, or dedicated outlets, for pending, flowage, and drainage purposes over hydrologic features such as waterbodies and public stormwater basins. The easements, or outlots, shall include the right of reasonable access for inspection, monitoring, maintenance, and enforcement purposes. The Community may require that the land be subjected to restrictive covenants or a conservation easement, in form acceptable to the Community, to prevent the future expansion of impervious surface and the loss of infiltration capacity.

5.13 Waivers. The Community may waive runoff rate, water quality, and runoff volume on-site standards, consistent with the Collaborative Local Water Management Plan, and provided the off-site stormwater facilities are capable of meeting the other requirements in this Chapter.

5.14 Trading. Consistent with criteria established by or approved by the VRWJPO, the Community may consider "trading" re-vegetation of streamside areas with inadequate shading for a lower degree of on-site temperature control with individual developments.

SECTION 6. WETLAND MANAGEMENT

6.01 Wetland Alteration Approval Required. No person or political subdivision shall drain, fill, excavate, or otherwise alter a wetland or public waters wetland without completing a wetland application provided by the Minnesota Board of Water and Soil Resources (BWSR), consistent with the requirements of the Wetland Conservation Act (WCA). The application may be referred to the technical evaluation panel appointed by the Community, BWSR, and the Dakota County SWCD for technical findings and recommendations prior to any action on the application by the Community. The Community is the LGU for all WCA review and permitting.

6.02 Wetland Determinations and Delineations. The Community shall refer to all maps and resources available in determining whether a land disturbing activity may impact a wetland. The Community has the authority and responsibility to carefully evaluate all potential wetland impacts. In instances when a potential wetland area is not illustrated on any maps or other resources and its existence is questioned, the Community shall contact the Dakota County WCD and request a determination to whether a wetland may in fact exist. If the SWCD determines that a wetland may exist, the Community shall require the person proposing the land disturbing activity to conduct a field evaluation and delineation of the potential wetland. The SWCD shall approve the evaluation and delineation, if the area is determined to be a wetland. The Community shall reimburse the SWCD for its determination and evaluations, according to fees established by the SWCD. Nothing shall prevent the Community from requiring the person engaged in a land disturbing activity to reimburse the Community for its out-of-pocket expenses incurred in the wetland determination and delineation procedure.

6.03 Wetland Management Priorities. The Community establishes the following priorities in managing wetlands:

- A. Work to achieve no net loss of wetlands.
- B. Replace lost wetlands in the same subwatershed whenever possible.
- C. Provide equal or greater functions and values for lost wetlands at the replacement ratios dictated by the WCA.
- D. Avoid direct or indirect wetland disturbance in accordance with State and Federal requirements and approved local wetland management plans.
- E. Limit the use of high quality wetlands for stormwater management where other alternatives exist.
- F. Prevent direct discharge of stormwater runoff facilities into wetlands.
- G. Avoid fragmentation of natural areas and corridors when feasible and mitigate when unavoidable.

6.04 Wetland Alteration/Mitigation Standards.

1. Any drainage, filling, excavation, or other alteration of a public waters wetland or wetland shall be conducted in compliance with Minnesota

- Statutes Section 103G.245, the WCA, Minnesota Rule Chapter 8420, including all exemptions, and regulations established herein.
2. In order to preserve WCA exemption or no loss determination, projects involving excavation in Types 1, 2, 6, and 7 wetlands must demonstrate a beneficial purpose, such as habitat or water quality improvements, and minimize loss of wetland function as determined by the LGU.
 3. Wetlands on agricultural land enrolled in the Federal Farm Program retain the WCA exemption as long as wetlands are: 1) not drained, excavated, or filled beyond that necessary to replace, maintain, or repair existing drainage infrastructure with a capacity not to exceed that which was originally constructed; or 2) replaced at a ratio of 1:1 or greater under United States Department of Agriculture provisions as supported by documentation from the United States Department of Agriculture, which must be included as evidence to support this exemption.
 4. Per the WCA, if the activity would result in loss of eligibility or conversion to non-agricultural land within 10 years, the landowner cannot qualify for the exemption.
 5. A high quality (or equivalent value) public waters wetland or wetland (as determined by methods acceptable to the VRWJPO for vegetative diversity) may not be used for stormwater management and treatment unless the use will not adversely affect the function and public value of the wetland and other alternatives do not exist.
 6. Wetland replacement/mitigation siting must follow the priority order below.
 - a. Mitigation on-site.
 - b. Mitigation within the same minor subwatershed as established by the Minnesota Department of Natural Resources for the "1979 Watershed Mapping Project" pursuant to Minnesota Laws 1977, chapter 455, section 33, subdivision 7, paragraph (a).
 - c. Mitigation within the VRWJPO boundary.
 - d. Mitigation within Dakota County.
 - e. Mitigation within major watershed number 38: Mississippi & Lake Pepin, excluding minor subwatersheds 3800400, 3800500, 3800401, 3801700, 3800402, 3800200, 3800302, 3800600, 3800800, 3800301, 3800300, 3800700, 3801601, 3800100, 3801800, 3801200, 380100, 3801000, and 3800900, which are located in Goodhue County and are tributary to the Mississippi River instead of the Vermillion River.
 7. Transportation projects shall pursue wetland mitigation projects to the extent practical using the standards above; however, this does not preclude the use of the BWSR Replacement Program.

SECTION 7. WETLAND AND WATERWAY BUFFERS

7.01 Wetland and Waterway Protection. It is a stated purpose of this Chapter to protect and preserve the function and value of water resources in the Community. The provisions

of this Section identify requirements for land preservation adjacent to wetlands and waterways for the purpose of protecting the function and value of water resources.

7.02 Buffers Required. A buffer of land adjacent to wetlands, public waters wetlands, and major waterways shall be established according to the requirements of this Section and encumbered by permanent easement or other formal mechanism as described in Section 7.06, for all lots created after the effective date of this Chapter, except as follows:

- A. A division of land exempt from local subdivision regulation as defined in Minnesota Statutes.
- B. A court-ordered division of land that precludes the Community from establishing these regulations.
- C. A division of land, where the resulting lots qualify for Green Acres agricultural tax classification.
- D. An authorized division of land enrolled in an Agricultural Preserve.

7.03 Structure Setbacks in Lieu of Buffers. All non-agricultural structures approved after the date of this Chapter shall comply with a setback standard equal to the minimum buffer widths prescribed in Section 7.04 and Section 7.05 of this Chapter, in areas where buffers have not been established.

7.04 Wetland Buffer Criteria and Dimensions. For all wetlands and public waters wetlands requiring buffers according to this Chapter, a wetlands delineation shall be required and a wetlands functional assessment for vegetative diversity shall be completed by the person required to establish the buffer, unless such assessment has been completed by the Dakota County SWCD. The functional assessment shall be consistent with standards established or recommended by the SWCD. Buffer dimensions shall be established, based on the value of wetlands, identified as follows:

Buffer Dimension	Exceptional Quality	High Quality	Medium Quality	Low Quality
Average Width	50 feet	40 feet	30 feet	25 feet
Minimum Width	30 feet	30 feet	25 feet	16.5 feet

7.05 Major Waterways Buffer Criteria and Dimensions. Major Waterways in the Community are identified by the VRWJPO, as illustrated on Map 1, October 26, 2006, attached to this Chapter as Appendix A. At any point in time that Map 1 is updated and formally adopted by the VRWJPO, and the updated map of Major Waterways is formally transmitted to the Community by the VRWJPO, the Community shall replace Map with the updated map. For all Major Waterways requiring buffers according to this Chapter, required buffers shall meet the following dimensions, based upon the following classifications of the waterways.

Waterway Classification	Buffer Dimensions and Standards
--------------------------------	----------------------------------------

Conservation Corridor	Lower Reach (Vermillion River downstream of Biscayne Avenue): 150-foot average, 100-foot minimum, measured from the edge of the meander belt of the river
Conservation Corridor	Upper Reach (Vermillion River upstream of Biscayne Avenue and South Branch Vermillion River): 150-foot average, 100-foot minimum, measured from the edge of the meander belt of the river
Aquatic Corridor Principal Connector	100-foot average, 65 feet minimum, measured from the edge of the meander belt of the river
Aquatic Corridor Principal Connector with Trout Stream Designation	100-foot minimum, no averaging, measured from the edge of the meander belt of the river
Aquatic Corridor Tributary Connector	50-foot average, 35-foot minimum: plus 2 feet for every 1 percent of slope,
Water Quality Corridor	30-foot average, 20-foot minimum where there is a flow path for concentrated surface runoff, measured from the center line of the flow path

7.06 Buffer Standards. The following standards shall apply to all buffers established in this Section.

- A. Where acceptable natural vegetation exists in buffer areas, the retention of such vegetation in an undisturbed state is required unless approval to replace such vegetation is received. A buffer has acceptable vegetation if it:
 1. Has a continuous, dense layer of perennial grasses that has been uncultivated or unbroken for at least 5 consecutive years, or
 2. Has an overstory of trees and/or shrubs that has been uncultivated or unbroken for at least 5 consecutive years, or
 3. Contains a mixture of the plant communities in 1 and 2 above that has been uncultivated or unbroken for at least 5 years.
- B. Buffers shall be staked and protected in the field prior to construction unless the vegetation and the condition of the buffer are considered inadequate. Existing conditions vegetation will be considered unacceptable if:
 1. Topography or sparse vegetation tends to channelize the flow of surface water, or
 2. Some other reason the vegetation is unlikely to retain nutrients and sediment.

- C. Where buffer vegetation and conditions are unacceptable, or where approval has been obtained to replant, buffers shall be replanted and maintained according to the following standards:
1. Buffers shall be planted with a native seed mix approved by MnDOT, BWSR, NRCS, or the Dakota SWCD, with the exception of a one-time planting with an annual nurse or over crop. Plantings of native forbs and grasses may be substituted for seeding. All substitutions must be approved by the Community. Groupings/clusters of native trees and shrubs, of species and at densities appropriate to site conditions, shall also be planted throughout the buffer area.
 2. The seed mix and planting shall be broadcast/installed according to MnDOT, BWSR, NRCS or Dakota SWCD specifications. The selected seed mixes and plantings for permanent cover shall be appropriate for the soil site conditions and free of invasive species.
 3. Buffer vegetation (both natural and created) shall be protected by erosion and sediment control measures during construction.
 4. During the first five full growing seasons, except where the Community has determined vegetation establishment is acceptable, the owner or applicant must replant buffer vegetation where the vegetative cover is less than 90%. The owner or applicant must assure reseeding or replanting if the buffer changes at any time through human intervention or activities.
- D. Where a buffer is required, the Community shall require the protection of the buffer under a conservation easement, or include the buffer in a dedicated outlot as part of platting and subdivision approval, except where the buffer is located in a public transportation right-of-way. For all buffers established, the edge of the buffers shall be identified with permanent markers (post and sign), noting the location and purpose of the buffer. The specifications for markers and the interval spacing of the markers shall be determined by the Community.
- E. Alterations, including building, storage, paving, routine mowing, burning, plowing, introduction of noxious vegetation, cutting, dredging, filing, mining, dumping, grazing livestock, agricultural production, yard waste disposal, or fertilizer application are prohibited Within any buffer. Periodic mowing or burning, or the use of fertilizers and pesticides for the purpose of managing and maintaining native vegetation is allowed with approval of the Community. Noxious weeds may be removed and mechanical or spot herbicide treatments may be used to control noxious weeds, but aerial or broadcast spraying is not acceptable. Prohibited alterations would not include plantings that enhance the natural vegetation or selective clearing or pruning of trees or vegetation that are dead, diseased or pose similar hazards, or as otherwise clarified in Standard F.
- F. The following activities shall be permitted within any buffer, and shall not constitute prohibited alterations:
1. The following activities are allowed within both the minimum and average buffer width areas:

- a. Use and maintenance of an unimproved access strip through the buffer, not more than 10 feet in width, for recreational access to the major waterway or wetland and the exercise of riparian rights:
 - b. Structures that exist when the buffer is created.
 - c. Placement, maintenance, repair, or replacement of public roads and utility and drainage systems that exist on creation of the buffer or are required to comply with any subdivision approval or building permit obtained from the municipality or county, so long as any adverse impacts of public road, utility, or drainage system on the function of the buffer have been avoided or minimized to the extent practical.
 - d. Clearing, grading, and seeding is allowed if part of an approved Wetland Replacement Plan, or approved Stream Restoration Plan.
 - e. Construction of a multipurpose trail, including boardwalks and bridges, provided it is constructed to minimize erosion and new impervious surface, and has an undisturbed area of vegetative buffer at least ten (10) feet in width between the trail and the wetland or public waters wetland edge, or the bank of the major waterway; or where needed to cross the major waterway, the minimum impact alignment is used.
 - f. The construction of underground utilities such as water, stormwater, and sanitary sewers and pipelines provided the minimum impact alignment is used, the area is stabilized in accordance with Standard 7.06 above, and setbacks established in the Floodplain Alterations Standard 8.03D are met.
2. The following activities are allowed within those portions of the average buffer width that exceed the minimum buffer width:
 - a. Stormwater management facilities, provided the land areas are stabilized in accordance with Standard 7.06B above, and alterations prohibited in Standard 7.06E above are upheld.
 - b. The area of shallow vegetated infiltration and biofiltration facilities, and water quality ponds not to exceed 50 percent of the pond area, adjacent to wetlands and major waterways may be included in buffer averaging provided the facilities do not encroach into the minimum buffer width, and the land areas are stabilized in accordance with Standard 7.06C above, and alterations prohibited in Standard 7.06E above are upheld.

7.07 Exceptions.

- A. The Buffer Standards do not apply to any wetland or public waters wetland with a surface area equal to or less than the area of wetland impact allowed without replacement as de under the WCA, and to those portions of wetlands that will be filled under approved wetland replacement plans per the WCA.
- B. If the Community has adopted a BWSR or VRWJPO approved Comprehensive Wetland Management Plan (prior to March 9, 2007), which prescribes required buffer widths for public waters wetlands, wetlands, and major waterways; the applicable chapter shall govern buffer widths, restrictions, allowable uses, and monumentation until such time as the VRWJPO completes second generation Watershed Plan in 2015. With the 2015 Plans the LGUs need to include standards equivalent to the VRWJPO Buffer Standards, or have updated plans approved by BWSR or VRWJPO.
- C. The Buffer Standards for Water Quality Corridors do not apply to lots of record as of the date of the published VRWJPO Rules, March 9, 2007, that are less than one acre in size.
- D. The Buffer Standards do not apply to existing outlots that received preliminary plat approval in the two-year period (or more if the preliminary plat approval was extended by the Community) preceding the date of the published VRWJPO Rules, March 9, 2007.
- E. Where a stream meandering project has been completed, the buffer width shall be established by the LGU and shall be no less than the minimum.
- F. Consistent with criteria established by or approved by the VRWJPO, the Community may consider "trading" re-vegetation of streamside areas with inadequate shading or inadequate stabilization for smaller buffer widths, or trading reduced buffer widths in one area for establishing buffers in identified critical areas.

7.08 Required Submittals. When buffers are established as required in Section 7.02, the following information shall be submitted to the community:

- A. Construction plans and specifications showing the delineated• wetland edge, buffer strip location(s), the location of buffer monuments and the location of any temporary fencing required.
- B. A narrative description of each buffer strip identifying its current condition.
- C. A legal description and drawing of each' buffer strip, signed forms for conservation easements; or record of an administrative land split, preliminary plat or final plat demonstrating that the buffer area is contained in an dedicated Outlot.
- D. A landscaping and vegetation-management plan according to Criteria 3 below, including a compliance monitoring and certification plan and a cost estimate, for buffer strips with unacceptable vegetation as defined by Criteria 2 below or where grading in a buffer strip is proposed.

SECTION 8. FLOODPLAIN ALTERATION

8.01 Floodplain Alteration Approval Required. No person or political subdivision shall alter or fill land, or build a structure or infrastructure below the 100-year critical flood elevation of any major waterway, public waters, public waters wetland, or other wetland without first obtaining a permit from the Community or Dakota County, acting as the LGU. Where Dakota County has floodplain management jurisdiction, the provisions of this Section and Dakota County Chapter No. 50 Shoreland and Floodplain Management Chapter shall apply.

8.02 Floodplain Management Priorities. The Community establishes the following priorities in managing floodplains.

- A. Protect the natural function of the floodplain storage areas from encroachment.
- B. Work to maintain no net loss of floodplain storage.
- C. Manage floodplains to maintain critical 100-year storage volumes.
- D. Limit floodplain alterations in order to obtain "no net loss" of floodplain storage, and including the preservation, restoration, and management of floodplain wetlands.
- E. Require compensatory storage for new developments within the floodplain.

8.03 Floodplain Management Standards. Land disturbing activities in or near the 100-year critical flood elevation shall be subject to the following standards.

- A. Floodplain alteration or filling shall not cause a net decrease in flood storage capacity below the projected 100-year critical flood elevation unless it is shown that the proposed alteration or filling, together with the alteration or filling of all other land on the affected reach of the waterbody to the same degree of encroachment as proposed by the applicant, will not cause high water or aggravate flooding on other land and will not unduly restrict flood flows.
- B. Where 100-year flood critical elevations have been established, all new structures shall be constructed with the low floor consistent with the minimum elevations as specified State of Minn. R. Ch. 6120 Shoreland and Floodplain Management, and Dakota County Chapter No. 50 Shoreland and Floodplain Chapter, as applicable.
- C. Projects involving development, redevelopment, or the subdivision of land, shall establish flood storage, flowage, and drainage easements over areas below the 100-year critical flood elevation of any public water, public waters wetland, or wetland.
- D. Setbacks for floodplain alterations, fill, and new underground utilities, such as water, sanitary and storm sewers and interceptors, gas lines, phone lines, and pipelines; shall be established and used along major waterways. These setbacks shall be established as follows: (the exception is for utilities that need to reach or cross the major waterway, provided the minimum

impact alignment is used) Limit floodplain alterations in order to obtain "no net loss" of floodplain storage, and including the preservation, restoration, and management of floodplain wetlands.

1. Where a major waterway has a sinuous flow pattern and a meander belt can be identified, the setback for new underground utilities shall be setback 15 feet from the outer edge of the meander belt.
2. Where a sinuous flow pattern and meander belt are not readily identifiable because of past channel alterations and/or the geomorphology of the channel, the setback established for new underground utilities shall provide for the potential for restoration and a sinuous flow pattern as follows.
3. Where there are existing encroachments that limit full restoration of the stream to the meander widths appropriate for the stream type, the setback shall be 15 feet from the reasonably achievable restoration width for the meander belt given the existing encroachments.
4. Where full restoration is possible, the setback shall be 15 feet from a meander belt width established along the stream reach that has a width 10 times the bankfull channel width. An assessment of the stream type may be completed, and meander belt widths established according to the stream type, in place of using the above 10x formula. Note: the 1999 Vermillion River Assessment Report, available at the Dakota SWCD or the Dakota County offices of the VRWJPO, provides assessment of stream type for many reaches of the Vermillion River.
5. Where buffers are required, above ground encroachments, alterations, and fill shall be consistent with the prohibited and allowed uses and widths specified in the Buffer Standard.
6. Projects that alter floodplain boundaries, such as bridge crossings and regional ponds that increase upstream high water levels are allowed provided that:
 - a. The applicant submits easements or other documentation in a form acceptable to the LGU or the VRWJPO demonstrating and recording the consent of the owner of any land affected by the increased high water levels,
 - b. The action is consistent with other portions of these Standards; and Local, State, and Federal Regulations, and
 - c. The upstream impacts, riparian impacts and habitat impacts of the proposed action are analyzed and no detrimental impacts result, or adverse impacts are mitigated:

8.04 Required Submittals. For any permit required in this Section, the following information shall be submitted to the Community and/or Dakota County:

- A. Site plan showing boundary lines, delineation and existing elevation contours of the work area, ordinary high water level, and 100-year critical flood elevation. All elevations shall be referenced to NGVD, 1929 datum.
- B. Grading plan showing any proposed elevation changes.

- C. Draft preliminary plat of any proposed subdivision.
- D. Determination by a registered professional engineer of the 100-year critical flood elevation before and after the proposed activity.
- E. Computation of the change in flood storage capacity as a result of the proposed alteration or fill.
- F. Erosion control and sediment plan, or Stormwater Pollution Prevention Plan, which complies with the Stormwater Management Rule.
- G. Soil boring results if available.

SECTION 9. DRAINAGE ALTERATION

9.01 Drainage Alteration Approval Required. No person or political subdivision shall artificially drain surface water, or obstruct or divert the natural flow of runoff so as to affect a drainage system, or harm the public health, safety, or general welfare of the Community, without first obtaining permit from the Community.

9.02 Drainage System Priorities. The Community establishes the following priorities in managing existing drainage systems:

- A. Use existing natural retention and detention areas for stormwater management to maintain or improve existing water quality.
- B. Manage stormwater to minimize erosion.
- C. Allow outlets from landlocked basins, provided such outlets are consistent With State and Federal regulations, and the downstream impacts, -riparian impacts, and habitat impacts of such outlets have been analyzed and no detrimental impacts result.
- D. Mitigate and reduce the impact of past increase in stormwater discharge on downstream conveyance systems.
- E. Address known flooding/erosion problems that cross jurisdictional boundaries and address other boundary issues and the diversion/alteration of watershed flows in local water plans.
- F. Address gully erosion problems in the watershed.
- G. Maximize upstream floodwater storage.

9.03 Drainage Alteration Standards. Land disturbing activities affecting existing drainage systems shall be subject to the following standards.

- A. Outlets from landlocked basins with a tributary drainage area of 100 acres or more will be allowed, provided such outlets are consistent with other portions of these Standards, State and Federal regulations, and the downstream impacts, riparian impacts, and habitat impacts of such outlets have been analyzed and no detrimental impacts result. The analysis and determination of detrimental impacts shall:
 - 1. Use a hydrograph method based on sound hydrologic theory to analyze runoff for the design or analysis of flows and water levels,

2. Ensure a hydrologic regime consistent with the Peak Runoff Rate Control Standards and the Runoff Volume Control Standards of this Chapter,
 3. Ensure the outlet does not create adverse downstream flooding or water quality conditions, or materially affect stability of downstream major waterways,
 4. Maintain dead storage within the basin to the extent possible while preventing damage to property adjacent to the basin,
 5. Ensure that the low floors of new structures adjacent to the basin are set consistent with the Floodplain Alterations Standards, and
 6. Ensure that proposed development tributary to the landlocked basin has incorporated runoff volume control practices to the extent practical.
- B. Artificial drainage, flow obstruction, and diversions involving waterways, public waters, public water wetland, wetlands with drainage areas of 640 acres or more will be allowed provided such alterations or diversions are consistent with other portions of these Standards, State and Federal regulations, and the downstream impacts, riparian impacts and habitat impacts of such alterations or diversions have been analyzed and no detrimental impacts result. Proposals for drainage alterations and diversions shall demonstrate that:
1. There is a reasonable necessity for such drainage alteration or diversion to improve or protect human health and safety, or to improve or protect aquatic resources;
 2. Reasonable care has been taken to avoid unnecessary injury to upstream and downstream land;
 3. The utility or benefit accruing to the land on which the drainage will be altered reasonable outweighs the gravity of the harm resulting to the land receiving the burden; and
 4. The drainage alteration or diversion is being accomplished by reasonably improving and aiding the normal and natural system of drainage according to its reasonable carrying capacity, or in the absence of a practicable natural drain, a reasonable and feasible artificial drainage system is being adopted.
- C. Drainage alterations, diversions, and landlocked basin outlets shall be provided with stable channels and outfall.

9.04 Exceptions.

- A. No permit shall be required where it is demonstrated that the proposed drainage alteration or diversion does not cause off-site erosion, sedimentation, flooding, or other damage.
- B. The LGU may waive the requirements regarding upstream and downstream flooding impacts if the applicant submits easements or other documentation in form acceptable to the LGU, demonstrating and recording the consent of the owner of any burdened land to the proposed alteration.

9.05 Required Submittals. For any permit required in this Section, the following information shall be submitted to the Community, the VRWJPO, and Dakota County if the LGU:

- A. Map showing location of proposed alteration and tributary area.
- B. Existing and proposed cross sections and profile of affected drainage area.
- C. Description of bridges or culverts required.
- D. Narrative and calculations verifying compliance with the following criteria.

SECTION 10. APPLICATIONS, PERMIT FEES, ESCROWS, AND SURETY

10.01 Applications. All requests for approvals required in this Chapter shall be made on application forms or by procedures prescribed by the Community, and reviewed and acted upon through procedures established by the Community, and according to timeframes established by state law.

10.02 Permit Fees. All requests for approvals required in this Chapter shall be obligated to pay applicable permit fees established by the Community and review procedure fees, including the reimbursement of out-of-pocket expenses incurred by the Community in the review and approval process. Out-of-pocket expenses include but are not limited to consulting fees, other agency review fees, public hearing publications, mailings, and similar expenses.

10.03 Escrow Fund. The Community may require a cash escrow fund, in amounts as established by the Community, to cover the anticipated out-of-pocket expenses incurred by the Community identified in Section 10.02 above. A person seeking approvals from the Community shall be obligated to cover all out-of-pocket expenses regardless of the existence of an escrow fund or the amount required in an escrow fund.

10.04 Financial Surety. The Community may require cash, a letter of credit, or performance bond, or other surety, in a form and amount determined by the Community, to guarantee satisfactory completion of any land disturbing activities and to protect the public health, safety and welfare.

SECTION 11. APPEALS AND VARIANCES

Appeals for the interpretation of any provision of this Chapter and variances from the literal application of the provisions in this Chapter may be appropriate in certain circumstances. The appeals and variance procedures to consider interpretations or relief from the provisions of this Chapter shall follow the procedures and requirement, and shall require the same findings and considerations for granting appeals or variances, as are prescribed in the Community Zoning Chapter. In addition to the Community's appeals and variance procedures, written notification shall be made by the Community to the VRWJPO of any proposed appeal or variance proceeding no later than at the time notice of the proceeding s delivered to the official newspaper for publication. The Community must

take into consideration any comments from the VRWJPO before acting on any appeal or variance.

SECTION 12. AMENDMENTS

Amendments to this chapter may be initiated by petition of any person or by direction of the Community. Any consideration for an amendment to this Chapter shall require a public hearing, including publication of the public hearing in the Community's official newspaper at least 10 days prior to the date of the public hearing. The public hearing may be held by the Planning Commission or the governing body, as determined by the Community. Prior to action on any amendment to this Chapter by the governing body, the Community must forward a notice of the public hearing to the VRWJPO at the time notice of the proceeding is delivered to the official newspaper for publication. The Community should review and consider any comments from the VRWJPO prior to acting on any amendment.

SECTION 13. ABROGATION AND STRICTER PROVISIONS

It is not intended by this Chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where any provision of this Chapter is in conflict with a provision of other Community chapters, the stricter provisions shall prevail.

SECTION 14. VIOLATIONS AND PENALTIES

14.01 Civil Remedy. In the event of a violation of this Chapter, the Community may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct or abate such violations or threatened violations, and the Community Attorney may institute such action.

14.02 Criminal Remedy. Any person, firm or corporation who shall violate any of the provisions of this Chapter or who shall fail to comply with any of the provisions of this Chapter or who shall make any false statement in any document required to be submitted under the provisions of this Chapter, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by law. Each day that a violation continues shall constitute a separate offense.

SECTION 15. SEVERABILITY

The provisions of this Chapter are severable, and if any provisions of this Chapter, or application of any provision of this Chapter to any circumstance, are held invalid, the application of such provision to other circumstances, and the remainder of this Chapter must not be affected thereby.

ORDINANCE 10: SUBDIVISION OF LAND

CHAPTER 1317

ORDINANCE 10: SUBDIVISION OF LAND

CHAPTER 1: SUBDIVISION REGULATIONS

SECTION 1. PURPOSE. In order to safeguard the best interests of the Town of Eureka and to assist the Subdivider in harmonizing his interests with those of the Town at large, the following Regulations are adopted so that the adherence to the same will bring results beneficial to both parties. It is the purpose of this Ordinance to make certain regulations and requirements for the platting of land within the Town of Eureka, pursuant to the authority contained in Minnesota Statutes, which regulations the Town Board deems necessary for the health, safety and general welfare of this community.

SECTION 2. JURISDICTION. The regulations herein governing plats and the subdivision of land shall apply within the corporate limits of the Town of Eureka.

SECTION 3. INTERPRETATION. The interpretation and application of the provisions of this Ordinance shall be minimum requirements adopted for the protection of public health, safety and general welfare.

SECTION 4. APPROVAL REQUIRED FOR VALID LOT.

A. This Ordinance requires that all land division in the Town of Eureka be accomplished through subdivision of property as described in this Ordinance.

B. No deed for a new lot resulting from a subdivision of property in the Town of Eureka shall be recorded in the Dakota County Recorder's Office unless the lot:

1. is part of a subdivision plat, whether formal or informal, approved by the Town Board under the terms of this Ordinance; or
2. is a separate lot in existence on the effective date of this Ordinance, described by metes and bounds and accompanied by a deed, registered land survey, or equivalent proof of creation prior to the effective date of this Ordinance; or
3. is the result of a division of land creating only parcels 20 acres or more in size and with at least 500 feet or more of public road frontage; or
4. is created by operation of a court order.

C. No building permits shall be issued by the Town of Eureka for constructing any building, structure or improvement on any lot in the subdivision as defined herein, until all requirements of this Ordinance have been met.

SECTION 5. SUBDIVISION APPLICATION. The Subdivider shall prepare and submit twelve (12) copies of each of the following materials in support of an application to subdivide real property.

A. PLAT. Except as noted below, the Subdivider may submit either an informal plat or a formal plat to show the proposed division of the property into new lots. If a formal plat is used, the Subdivider should supply paper copies with the application; the mylars specified by statute need not be submitted to the Town. The Subdivider must submit a formal plat under any of the following circumstances:

1. The land being subdivided abuts an existing or proposed County Road or Highway; or
2. The proposed subdivision includes a dedication of land to the public for any purpose; or
3. The proposed subdivision includes a proposed lot of less than 2.5 acres in area; or
4. The proposed subdivision includes four or more lots.

B. APPLICATION. The Subdivider shall submit a complete application on a form provided by the Township.

C. VARIANCES AND USE PERMIT REQUESTS. Applications for any Variances from the provisions of this Ordinance or applications for Variances or Conditional Uses as provided for in the other Township Regulations shall accompany the subdivision application. The required fee(s) for such actions must be submitted with the applications.

D. NOTIFICATION LIST. A list of all property owners located within three hundred fifty (350) feet of the subject property, obtained from and certified by Dakota County or the Town of Eureka.

E. SUPPLEMENTAL INFORMATION. The Subdivider shall also include:

1. If requested by the Town Board, one or more drawings, to scale, prepared by a licensed surveyor or engineer showing:
 - a. The location, widths and names of all existing or previously platted streets or other public ways, showing type, width and condition of improvements, if any; railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, easements and section and corporate lines within the plat and to a distance of one hundred (100) feet beyond the tract.

b. The location and size of existing sewers, water mains, pipelines, culverts or other underground facilities within the tract and to a distance of one hundred (100) feet beyond the tract, Such data as grades, invert elevations and locations of catch basins, manholes and hydrants also shall be shown.

c. Topographical data for the property to be subdivided, including contours at vertical intervals of not more than two (2) feet. Water courses, wetlands, rock out-crops, power transmission poles and lines and other significant features shall also be shown.

2. The text of any proposed restrictive covenants intended to apply to the new lots on the property following subdivision.

SECTION 6. FEES AND COSTS.

A. APPLICATION FEE AND ESCROW. The Town Clerk shall accept an application for subdivision only upon payment of the established fee and deposit of a cash escrow. The base fee for a subdivision application shall be established by the Town Board from time to time and published with all other Town fees and charges. This fee is non-refundable. In addition to the base fee, the Subdivider shall deposit funds with the Town for payment of expenses incurred through staff time and from all outside sources including, but not limited to, engineers, attorneys, and outside consultants employed specifically for review and processing the application. The deposit shall be based on the Town clerk's estimate of staff and consultant time required, but in no case shall the deposit exceed one percent (1%) of the current-year market value of the land to be subdivided, as determined by the Dakota County Assessor. Any amount over the base fee not expended by the Town will be refunded within thirty (30) days of final action on the application (i.e. final plat approval or application denial). Expenses in excess of the filing fee and deposit that the Town incurs shall be borne by the Subdivider and paid prior to final approval.

B. COST-SHARE AGREEMENT. The Subdivider shall also execute with the application a Cost-Sharing Agreement indicating the Subdivider's understanding that he/she agrees to reimburse the Town for all expenses incurred through staff time and from all outside sources including, but not limited to, engineers, attorneys, and outside consultants employed specifically for review and processing the application.

SECTION 7. STANDARDS APPLICABLE TO ALL SUBDIVISIONS.

A. LOT DIMENSIONS. The lots proposed in a subdivision application must comply with the minimum lot dimensional standards of Ordinance 3, Chapter 3, and all other applicable provisions of the Town Zoning Regulations.

B. OTHER MINIMUM STANDARDS. The lots created within a subdivision must meet, or be capable of meeting, setback, design and engineering standards stated in other Town Ordinances, or in Dakota County Ordinances which apply to development in the Town. Such ordinances include, but are not limited to, the County or Town septic-system ordinance and water management or stormwater control ordinances applicable to land in the Town.

C. PROPOSED ROADS. Any roads proposed for public dedication must meet or exceed the Town road standards established by Ordinance4, Chapter 2.

D. LOT LAYOUT RESTRICTION. Double frontage, or lots with frontage on two (2) roughly parallel streets, shall be avoided except where lots back on an arterial street or highways, or where topographic or other conditions render subdividing otherwise unreasonable. Such double-frontage lots shall have an additional depth of at least twenty (20) feet in order to allow space for screen planting along the back lot line.

E. NO CREATION OF SUBSTANDARD LOTS. Any lot remnants below the minimum size required by Ordinance 3, Chapter 3 left over after subdividing of a larger tract must be added to adjacent lots rather than being allowed to remain as unusable parcels.

F. CONTINUOUS UTILITY EASEMENTS. Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the Town Board.

SECTION 8. REVIEW PROCESS FOR SUBDIVISION APPLICATION.

A. RECIEIPT OF APPLICATION. The Town Clerk shall not accept a subdivision request until receiving all the materials specified in Section 5, and the payments required by Section 6. Incomplete applications shall be returned to the Subdivider within ten (10) business days after receipt. Upon receipt of a complete subdivision application and payment of fees and escrow, the Town Clerk shall:

1. Send a copy of the Subdivision Application to each member of the Planning Commission.
2. Refer copies of the application to the Watershed Organization, County, State, or other public jurisdictions for their timely review and comment, where appropriate and when required.
3. Schedule a public hearing on the application before the Planning Commission, preparing notices of hearing for newspaper publication and mailing to the owners of property within 350 feet of the proposed subdivision. The notices must be published and mailed at least ten (10) days prior to the scheduled public hearing.

B. STANDARDS FOR APPROVAL. A subdivision plat shall not be approved unless it:

1. Conforms to the Comprehensive Plan and related plans of the Town, as approved by the Planning Commission and Town Board;
2. Conforms to the requirements of this Ordinance and the Town Zoning Regulations; and
3. The lots created by the subdivision meet, or are capable of meeting, the design and engineering standards set forth in this Ordinance and other applicable Town Regulations.

C. PUBLIC HEARING. The Planning Commission shall hold a public hearing on the proposed subdivision application. Upon completion of the Public Hearing, the Planning Commission shall prepare a report stating the Commission's findings regarding the plat's compliance with the standards stated above, its recommendation for approval or disapproval of the plat, and recommendations for conditions, if any, that should be met prior to a grant of final plat approval.

D. SUBMISSION TO TOWN BOARD. Following receipt of the Planning Commission's report, the Town Clerk shall forward five (5) copies of the subdivision application and the Planning Commission report to the Town Board. If the report of the Planning Commission has not been received so as to provide for compliance with time limits established by law (presently 120 days from receipt of a complete application, unless extended by law or agreement), the Town Board may act without such a report. Any modification or waiver of time limits established by law shall only be made in writing to the Town by the applicant except for extensions by the Town provided for by law.

E. INITIAL ACTION BY TOWN BOARD. The Town Board shall, within the time limits established by law, act upon the subdivision application at a properly convened public meeting. The Town Board's discussion and action shall be formally recorded in the minutes of the meeting. Following consideration of the application, the report of the Planning Commission, and any other materials or testimony presented, the Town Board may:

1. Disapprove the subdivision application, stating on the record the reasons for such denial for inclusion in the meeting minutes; or
2. Grant Preliminary Plat Approval, should the Town Board conclude that the application complies with the requirements of Town Regulations, but the public interest requires the Subdivider to satisfy certain conditions before recording the subdivision (examples of such conditions are execution of a development agreement, posting of security for required public improvements; changes to the design of the subdivision; or obtaining agreements or permission from other government agencies with regulatory authority over the property); or

3. Grant Preliminary and Final Plat Approval, should the Town Board conclude that the application complies with the standards for approval stated above, and makes the further finding that no additional conditions are necessary to protect the public's interest prior to recording the subdivision plat.

F. TOWN BOARD ACTION ON FINAL APPROVAL REQUEST. If the Town Board gives Preliminary Plat Approval to a subdivision application and sets conditions for Final Approval, the Subdivider shall request Final Plat Approval within six (6) months of that action. The Subdivider shall submit six (6) copies of the materials required to be created, obtained, or altered in order to satisfy the conditions imposed by the Town Board. After the Subdivider has submitted a request for Final Plat Approval, the Town Board shall act on the request within the time limits established by law (presently 60 days from receipt of a complete request, unless extended by law or agreement). The Town Board shall not give Final Plat Approval unless the Final Plat conforms to the terms of the Preliminary Plat with all changes and conditions associated with that Preliminary Plat Approval.

SECTION 9. RECORDING OF APPROVED SUBDIVISION.

A. After a Subdivision Application receives Final Approval from the Town Board, the Subdivider shall record the approved Final Plat with the County Register of Deeds within sixty (60) days after the date of approval. If not recorded within this time period, the Final Approval of the subdivision shall be considered void.

B. The Subdivider shall, immediately upon completion of recording, furnish to the Town Clerk two (2) prints of the Plat or alternate Land Description which show evidence of recording.

SECTION 10. VARIANCES FROM THIS ORDINANCE

A. The Town Board may grant a variance in any particular case where the Subdivider can show that, by reason of exceptional topography or other physical conditions, strict application of a term of this Ordinance would cause an unusual hardship on the use of the land. Such relief may be granted provided there is no detriment to the public welfare and no impairment of intended purpose of this Ordinance.

B. An application for any such Variance shall be made on an official application form available from the Town Clerk and shall be submitted at the same time as the subdivision application is filed for consideration. A variance application shall be accompanied by the required fee(s). Such application shall state fully all facts relied upon by the Subdivider and shall be supplemented with maps, plans or additional data that will aid the Town in the analysis of the proposed project.

C. Upon receiving such application, the Town Clerk shall refer the application, along with all related information, to the Planning Commission for consideration at a duly convened public hearing, a report and recommendation to be sent to the Town Board.

D. The Subdivider or a representative of the Subdivider shall appear before the Planning Commission at its next regular meeting in order to answer questions concerning the proposed Variance.

E. The Planning Commission shall have the authority to request additional information from the Subdivider concerning the Variance or to retain expert testimony with the consent and at the expense of the Subdivider concerning said Variance, where said information is declared necessary to insure preservation of health, safety and general welfare.

F. The Planning Commission shall make findings of fact and recommend to the Town Board in writing such actions or conditions relating to the request as it may deem necessary to carry out the intent and the purpose of this Ordinance and shall do so in a timely manner that allows the Town Board to take action within the time limits established by law (presently, 60 days from receipt of a complete application, unless extended by law or agreement).

G. Upon receiving the report and recommendation of the Planning Commission, the Board shall, within the time limits established by law, act upon the application. If the report of the Planning Commission has not been received so as to provide for compliance with time limits, the Town Board may act without such a report. The Town Board shall make findings of fact relating to the Variance request and impose any conditions considered necessary to protect the public health, safety and welfare. The Town Clerk shall promptly notify the applicant of the Board's decision in writing, stating the reasons for denial if the application is denied.

SECTION 11. VIOLATIONS AND PENALTY

A. SALE OF LOTS FROM UNRECORDED PLATS. It shall be unlawful to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with any plan, plat or replat of any subdivision or area located within the jurisdiction of this Ordinance unless said plan, plat or replat shall have first been recorded in the Office of the Recorder of Dakota County.

B MISREPRESENTATION AS TO CONSTRUCTION, SUPERVISION OR INSPECTION OF IMPROVEMENTS. It shall be unlawful for any person, firm or corporation owning an addition or subdivision of land within the Town of Eureka to represent that any improvements upon any of the streets, or avenues of said addition or subdivision or any sewer or water system in said addition or subdivision has been constructed according to the plans and specifications approved by the Town Board, or

has been supervised or inspected by the Town, when such improvements have not been so constructed, supervised or inspected.

C. PENALTY. Any person who violates any of the provisions of this Code shall, upon conviction thereof, be fined not more than the maximum penalty for a misdemeanor prescribed under State Law. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 12. RULES AND DEFINITIONS. The following words, and terms, whenever they occur in this Ordinance are defined as follows:

DEDICATION - the conveyance of land to the Town of Eureka, or reservation of land for later conveyance, to hold for public use as streets, roads, sewers, electric facilities, gas facilities, water facilities, stormwater drainage, holding areas or ponds and similar utilities and improvements.

OUTLOT - a lot remnant or parcel of land left over after platting for which no non-agricultural development is intended and for which NO building permit shall be issued.

OWNER - any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this Ordinance.

PERSON - any individual, firm, association, syndicate, or partnership, corporation, trust, or any other legal entity.

PLANNING COMMISSION - the Town of Eureka Planning Commission.

PLAT, FORMAL - a delineation of one or more existing parcels of land drawn to scale, depicting the location and boundaries of lots, blocks, outlots, easements, and dedicated areas, prepared with the data, format and certifications specified by Minnesota Statutes, § 505.021 or successor statute.

PLAT, INFORMAL - a delineation of one or more existing parcels of land drawn to scale, depicting the boundary lines of the existing property and the proposed boundaries and location of lots, outlots, easements, and dedicated areas, along with legal descriptions of the proposed new lots.

PUBLIC IMPROVEMENT- any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement or other facility for which the Town of Eureka does or may ultimately assume responsibility for maintenance and operation, or that may affect an improvement for which local government responsibility is established.

RESTRICTIVE COVENANT – a contract made between private parties as to the manner in which land may be used, which run with the land and are enforceable by any present or future owner of the land owned by the contracting parties.

SUBDIVIDER – the owner or other person seeking approval of a subdivision of land governed by this Ordinance.

SUBDIVISION - the division of an area, parcel, or tract of land into two (2) or more lots or parcels, for the purpose of transfer of ownership or building development that will require the creation of streets and roads, except for those resulting from court orders, or the adjustment of lot lines by the relocation of a common boundary. The term includes re-subdivision and when appropriate to the context, shall relate to the process of sub-dividing or to the land subdivided.

SECTION 13. CONFLICT AND INTERACTION OF ORDINANCES. Whenever there is a conflict between minimum standards or dimensions specified herein and those contained in other official regulations, resolutions, or these Ordinances of, the most restrictive standards shall apply.

SECTION 14. SEPARABILITY. It is the intention of the Town Board that the several provisions of this Ordinance are separable and that if any court of competent jurisdiction shall adjudge any provision of this Ordinance or application thereof to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.

Ordinance Adoption and Amendment Information

Adopted June 7, 2005

Ordinance originally adopted by the Town Board Adopted the 7th day of June, 2005, published on June 18, 2005.

Amended June 12, 2006

Adopted Ordinance 9 Watershed Management on the 12th day of June, 2006, by Resolution No. 46, published on _____

Amended by Resolution No. 47 "Resolution Amending and Restating Ordinance No. 7: Fees" in relationship to the North Cannon River WMO Ordinance on the 12th day of June, 2006, by Resolution No. 46, published on _____

W. Watershed Management Fee Schedule

X. Storm Water Pollution Prevention Plan (SWPPP) Security

Amended April 9, 2007

Amended by Resolution No. 54 "Resolution Adopting Amended Zoning Ordinance 3" on the 9th day of April, 2007, published on 5-10-2007

Definition of "Lot of Record"

Ordinance 3, Chapter 3, Section 1. F.

Section 2. A. 1. a. & b.

Section 2. B. 1.,2.,3.,4.

Amended August 13, 2007

Ordinance 1, Chapter 4-

Definitions

Ordinance 2 Chapter 1, Section 1., 1. A.1., A.1.b.

Chapter 2, Section 1.C.

Section 2.

Section 3, 3.B.

Chapter 3, Section 1. A.

Section 2.

Section 4.

Section 6.H.

Ordinance 3, Chapter 1, Section 2.A.

Chapter 2, Section 1.A., B.6., B.10., B.11.

Section 1.C. Deleted as Conditional Uses:

C.2. Agricultural Activities

C.3. Mining and Extraction operations

D. Added as Interim Uses and Structures: 1., 2., 3.

E.

Chapter 3, Section 1.F., 1.G.

Section 2. A.2, B., C.4.

Section 3. C. 1.-4.

Section 4. A.1, B., B.1., 2., 3.

Ordinance Adoption and Amendment Information

- Chapter 4, Section 1.B.5.
- Section 3.B.
- Section 5. A.1., 2., 3., B., D.1., 2.
- Section 7. C., D.
- Section 8.A.
- Section 10. A., B.1., 2., 3., C.
- Section 11, 11.A., D., E., F.
- Section 12, A., 3.c., 5.
- Section 13, A.2., 4., B.9., C.6., 12., 14.
- Section 14
- Section 15, A.4., B.1., 3., 6., 7., 8., 9., 9.b., 10., 11., 13., 15.
- Chapter 5, Section 1.D.
- Chapter 7, Section 1.A.
- Section 2.A.
- Section 3.C.1., 5.
- Chapter 8, Section 3.A, B., C.
- Section 4
- Section 5.B., C.
- Section 6
- Section 11
- Chapter 9, Section 3, A.5.
- Section 4, A.
- Section 5, C., F.
- Ordinance 4, Chapter 2, Section 5 (All new)
- Section 12, B.2.
- Ordinance 5, Chapter 4, Section 5
- Ordinance 6, Updated references to other ordinance sections
- Chapter 5, Section 1, A.
- Ordinance 7, Chapter 1
- Chapter 2, A., E., F., G., H., I., J.,K., N., O., P., Q., R., S., T., U., V., W., Y., Z., AA., BB., A.

Amended February 9, 2010

Amended Section by Ordinance 2009-1 on February 9, 2010, amendment published on February 20, 2009

- Ordinance 6, Chapter 7, Section 1.O.

Amended June 15, 2010

Amended Section(s) by Ordinance 2010-1 on June 15, 2010, amendments published on June 25, 2010:

- Ordinance 1, Chapter 4-Definitions
- Ordinance 3, Chapter 2, Section 1. B. 2., 5., 6. & D. 2.
- Chapter 3, Section 2. C.
- Section 3. D.
- Section 4. B. 4.

Ordinance Adoption and Amendment Information

Chapter 4, Section 1. B. 4, & G.
Section 2. A.
Section 3. A.
Section 5. A. 5 & C.
Section 7. A.- E.
Section 8. D.
Section 10. A.- C.
Section 12. A.
Section 14. C. 3.
Section 15. A. 6., C. 3., C. 6. & C. 12.

Chapter 5- Commercial Agriculture

Chapter 6, A., B., C.

Chapter 7, Section 2. A.

Chapter 8, Section 11. & Section 12

Ordinance 4, Chapter 3, Section 1. A.- F.

Ordinance 5, Chapter 3, Section 3. B. 7.

Ordinance 6, Chapter 6, Section 1. A.- L.

Ordinance 7,

Chapter 1, Payment of Fee

Chapter 2, E., G., V., CC., DD. & EE.

Repealed Sections(s)

Ordinance 3, Chapter 4 - Building Permits, Building Regulations, and Performance Standards, Section 16- Manufactured Homes

Chapter 9 - Junk Vehicles on Private Property

Ordinance 2010-2 Adopted September 13, 2010, Published on September 17, 2010

Ordinance 2010-3 Adopted October 12, 2010, Published on October 22, 2010

Ordinance 2010-4 Adopted November 8, 2010, Published November 12, 2010

Amended Ordinance 5, Chapter 3, Relating to Outdoor Assemblies:

Section 2, A, B, D, F.

Section 3, A, B. 5, 6, 8, 9, 11, 12, 14

Section 4. A, C.6., 8- 22, D.

Section 5

Section 6, A, B

Section 7, D, E

Section 9 A-D

Ordinance 2010-05 Adopted December 13, 2010, Published on December 17, 2010

Ordinance 2010-06 Adopted December 13, 2010, Published on December 17, 2010

Amended Ordinance 1, Chapter 4, Definition of Lot of Record, Substandard

Ordinance 3, Chapter 2, Section 1(C)

Chapter 3, Section 1

Ordinance Adoption and Amendment Information

Chapter 3, Section 2(A)
Chapter 3, Section 2(B)

Ordinance 2011-01 Adopted March 14, 2011, Published on March 18, 2011
Amended Ordinance 1, Definitions- Swimming Pools
Amended Ordinance 3, Chapter 4, Section 9

Ordinance 2011-02 Adopted March 14, 2011, Published on March 18, 2011
Amended Ordinance 3, Chapter 7, Domestic and Non-Domestic Animals

Ordinance 2011-03 Adopted May 9, 2011, Published on May 20, 2011

Ordinance 2011-04 Adopted August 15, 2011, Published on August 19, 2011
Amended Ordinance 2, Chapter 2, Section 1(C)
Amended Ordinance 3, Chapter 4, Section 16

Ordinance 2011-05 Adopted October 11, 2011, Published on October 21, 2012
An Ordinance Regulating Noise and Nuisance within the Township

Ordinance 2012-01 Adopted March 12, 2012, Published April 20, 2012
Amended Ordinance 7 Fee Schedule

Ordinance 2012-02 Adopted October 9, 2012, Published October 19, 2012
Amended Ordinance 3, Chapter 3, Section 4(B.4.)
Amended Ordinance 3, Chapter 4, Section 12
Amended Ordinance 3, Chapter 7, Section 4 (B)
Amended Ordinance 7, Chapter 2, (J, CC, EE, FF, GG)