EUREKA TOWNSHIP

ORDINANCES

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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 24
Township Board Meetings
Board of Adjustments and Appeals
Planning Commission
Special Committees and Task Force
Township Contractors
Township Staff
Township Records

ORDINANCE 3: ZONING 36
General Provisions
Zoning Districts
Buildable Lots
Performance Standards, Building Regulations and Building Permits
Agriculture
Airstrip Policy
Domestic and Non-Domestic Animals
Signs on Private Property
Junk Cars on Private Property

ORDINANCE 4: PUBLIC SAFETY 81
Emergency Services
Roads
Utility Lines

ORDINANCE 5: LIVABILITY 92
Parks and Recreation
Schools, Libraries and Other Public Buildings
Outdoor Assemblies
Noise and Nuisance

ORDINANCE 6: MINING 102
Title
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
Effective Date

ORDINANCE 7: FEES.....139
Payment of Fees
Establishment of Fees

ORDINANCE 8: ENFORCEMENT OF ORDINANCES.....147
Penalties

ORDINACE 9: WATERSHED MANAGEMENT…….149
North Cannon River WMO

ORDINANCE 1: GENERAL PROVISIONS

CHAPTER 1: OVERVIEW 2

CHAPTER 2: COMPLIANCE WITH OFFICIAL STATUTES 2

CHAPTER 3: REPEALING OLD ORDINANCE 3

CHAPTER 4: DEFINITIONS 3

CHAPTER 5: PROCESS FOR CHANGING ORDINANCES 23

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 this 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 these Ordinances, its meaning shall be construed as set forth in such definition. If no set definition is given in the 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 Annotated and 2003 and Supplement 2004, unless otherwise provided in this Code.

Chapter 3: Repealing Old Ordinance

All general ordinances of the township passed prior to the adoption of this Ordinance are hereby repealed, except such as are included in this Ordinance or are by necessary implication herein reserved from repeal.

Chapter 4: Definitions

Accessory Use or Structure

A subordinate building, structure or use which is located upon the same parcel or lot on which the main building or use is situated and is incidental but reasonably necessary to the principal use of such lot, parcel or building.

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. See also Farm Building.

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 incident or in conjunction with such operations, including preparation for market, delivery to storage, to market, or to carriers for transportation to market.

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 to be 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. For purposes of this chapter, 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.

Automobile graveyard

Any site, lot, field or tract of land upon which five or more junk vehicles are kept, and shall include any building, structure or enclosure used or intended for use as part of the equipment of such automobile graveyard.

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 to 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.

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.

Carport

An automobile shelter having one or more sides open.

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.

Commercial Agriculture

The exclusive use of ten (10) or more contiguous acres of land for the production of field crops and livestock products, and the exclusive use of forty (40) or more contiguous acres of land for the production of livestock. For purposes of this section, the terms field crops, livestock products and livestock shall include, but not be limited to:

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 & 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.

Confined

The animal is restricted to a certain defined location or area by leash, cord, chain, wall or fence barrier.

Confinement

The physical restriction of an animal to a certain location in which the animal is confined as set forth herein.

Curb Level

The grade elevation established by the governing body 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 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.

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.

Exterior Storage

The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building. The term includes open storage.

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 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.

Farm Building

All buildings other than dwellings which are incidental to the farming operation, including but not limited to barns, granaries, silos, farm implement storage buildings and milk houses.

Farm Dwelling

A structure designed for habitation by human beings located on a farm, the occupant of which owns or is employed thereon.

Federal Communications Commission

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

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 or families resident upon the premises.

Guyed Tower

A tower that is supported, in whole or in part, by wires and ground anchors.

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.

Interim Use

Is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

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

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.

Land Owner

Any person, group, firm, or corporation owning, leasing or legally controlling any lands within the territorial limits of the Township of Eureka.

Landscaping

Plantings such as trees, grass and shrubs.

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 use, 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.

Lot

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

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 is filed in the Office of the Dakota County Recorder on or before April 12, 1982.

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 on two or more intersection 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 this Ordinance.

Lot

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

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.

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, Substandard

A lot of record which does not meet the minimum lot area, structure setbacks, or other dimensional standards of this 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 this 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 shall be contiguous to a one family dwelling.

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-Farm Dwelling

A structure intended for occupancy by human beings, the occupant of which is not employed by or an owner of the farm on which it is located.

Open Sales Lot

Any land used or occupied for the purpose of buying and selling any goods, materials or merchandise, and for the storing of same under the open sky prior to sale.

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.

Person

Person means an individual regardless of age or residence, corporation, business trust, partnership or association or any other legal entity.

Planned Unit Development

An urban development having two or more principal uses or structures on a single lot and developed according to an approved plan. Where appropriate, this development control advocates: (1) a mixture of land uses, one or more of the non-residential uses being regional in nature; (2) the clustering of residential land uses providing common and public open space, the former to be maintained either by the residents of the development or the local community; and (3) increased administrative discretion to the local professional planning staff, and the setting aside of present land use regulations and rigid plat approval processes.

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.

Poultry Operation

A confined area or structure used for raising, feeding, breeding or holding chickens, turkeys, and other poultry for eventual sale, or the production of eggs, in which animal wastes may accumulate.

Principal Structure or Use

The purpose or activity for which the land structure or building thereon is designed, arranged or intended, or for which it is occupied or maintained.

Private Kennel

A kennel where dogs are kept by the owner for personal use.

Private Stable

A place where animals are kept by the owner for personal use.

Public Land

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

Public Stable

A place where animals are kept for public use or sale which shall include but not be limited to the following activities: riding, rentals, 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 quartersection 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.

Reorganization 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 Chair, 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, avenues, boulevard, lane, trail, way or place, or however otherwise designated; however, not including privately-owned driveways, easements and/or access routes.

Service Provider

Any individual or entity which provides wireless telecommunication services.

Shooting

The firing of firearms of any kind whatsoever.

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 as required in this Section.

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, which would prolong the life of the supporting members of a structure, such as bearing walls, columns, beams, girders, or foundations.

Structure

Anything constructed, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground.

Swimming Pool

A swimming pool is any structure above or below ground that contains over 15,000 gallons of water and is over 2 feet deep at its maximum depth.

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.

Townhouse

A single-family building attached by party walls with other single family buildings, and oriented so that all exits open to the outside.

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 these Ordinances. The cut-off date for the registration of non-conforming use or structures was December 31, 2004.

Use, Permitted

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

Variance

Written approval waiving the literal provisions of these Ordinances in instances where the strict enforcement would cause undue hardship because of physical circumstances unique to the parcel of property under consideration which are not created by the owner of the variance, and if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of these Ordinances.

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 this Ordinance. The yard extends along the lot line at right angles to such lot line, to a depth or width specified in the setback regulations 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 regulations 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 regulations 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 regulations and requirements governing use are uniform.

Zoning Ordinance

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

Chapter 5: Process for Changing Ordinances

Section 1 - ZONING

A. An amendment to the text of the Zoning Ordinance or the zoning map 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 shall fill out an application and submit it to the Secretary of the Planning Commission or Town Clerk, together with a fee as set forth in Ordinance 7.

B. A public hearing on the rezoning application shall be held by the Planning Commission after the request for zoning amendment has been received. Notice of said hearing shall be published in the official newspaper 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 residences within one mile of the property proposed to be rezoned. The failure of such notice to reach any resident, so long as the notice was attempted by the Town Board, 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 Ordinance or the zoning map 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 MEETINGS 25

CHAPTER 2: BOARD OF ADJUSTMENTS AND APPEALS 26

CHAPTER 3: PLANNING COMMISSION 27

CHAPTER 4: SPECIAL COMMITTEES AND TASK FORCE 33

CHAPTER 5: TOWNSHIP CONTRACTORS 34

CHAPTER 6: TOWNSHIP STAFF 34

CHAPTER 7: TOWNSHIP RECORDS 35

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 Reorganization 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 adjourned 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, then the new meeting location will be posted.

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 meeting 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 and Engineer, and the costs of any publication which may be required, will be paid by the person on whose behalf the special meeting is called.

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 Adjustment and Appeals

Section 1 - PURPOSE

The Town Board shall, pursuant to MSA § 462.354, subd. 2, act as the Zoning Board of Adjustment 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 these Ordinances.

B. Interpretation. Interpret the boundary lines between zoning districts when such questions arise and interpret the provisions of these Ordinances in such a way as to carry out the intent and purpose of these Ordinances.

C. Variances. Grant variances or relief from literal ordinance requirements in accordance with the provisions of Ordinance 3, Chapter 4, Section 14. To hear requests for variances from the literal provisions of the Ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be keeping with the spirit and intent of the Ordinance. The Board may not permit as a variance any use that is not permitted under the Ordinance for property in the zone where the affected person's land is located. The Board may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The Board may impose conditions in the granting of variances to insure compliance and to protect adjacent properties.

Section 2 - GENERAL

The members of the Board of Adjustment and Appeals shall serve without compensation, but may be paid their necessary expenses in attending meetings of the Board and in the conduct of the business of the Board. The Board of Adjustment 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. 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 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 Adjustment and Appeals shall be held at the call of the chairman and at such other times as the Board in its rules of procedure may specify.

Meetings of the Board of Adjustment 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 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 Adjustment and Appeals may reverse or affirm wholly or partly or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises; and to that end 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's decision shall be stated. The decision of the Board shall be final.

Section 3 - BUILDING PERMITS

In the event a permit for a building is denied, the Board, 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 finds, upon the evidence and arguments presented to it:

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 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.

Chapter 3: Planning Commission

Section 1 – PURPOSE

This Ordinance 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 insure maximum returns for expenditure of public funds, and to avoid errors and waste resulting from unplanned and uncoordinated development.

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, regulations 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, or the Member may be disqualified by the Chairperson of the Commission.

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.

No person shall be appointed to serve more than two successive terms on the Planning Commission; provided, however, if no other applicants apply for the position, the Town Board may waive the prohibition against serving more than two successive terms and in such case the Town Board may appoint the Member to serve one more additional successive term of three (3) years; provided further, existing Members shall nonetheless be eligible to be reappointed to serve two (2) additional successive terms, the duration of which shall be determined by the Town Board.

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, Vice-Chairperson, and Secretary from among the Members. The election of officers shall take place at the May meeting of the Planning Commission. No person shall serve as Chairperson of the Planning Commission for more than two successive years.

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. Copies of the minutes of the Planning Commission meetings shall be transmitted to the Clerk of the Town Board at least twenty-four hours prior to the next regularly scheduled meeting of the Town Board following the meeting of the Planning Commission.

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.

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. Adjourned 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, regulations, 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 Ordinances and regulations 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.

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 this Ordinance.

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 regulations 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 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/TREASURER

The Town Board of Eureka Township shall instruct the Town Clerk to perform the following duties.

A. Maintain permanent and current records of the Township Ordinances, including but not limited to all maps, amendments, and special uses, variances, appeals and applications.

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

C. Perform the duties of the Zoning Administrator.

D. To perform any other duties as required by law and set forth in Minnesota Statute Sections 367.11and 367.16.

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 ordinance 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 this ordinance shall be enforced by a Minnesota Certified Building Official designated by the Town Board to administer the ordinance. The Town Board of Eureka Township shall instruct the Township building official or deputy inspector to enforce these Ordinances and perform the following duties:

A. Conduct inspections of buildings and use of land to determine compliance with the terms of this Ordinance.

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 ordinance 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

CHAPTER 1: GENERAL PROVISIONS 37

CHAPTER 2: ZONING DISTRICTS 40

CHAPTER 3: BUILDABLE LOTS 41

CHAPTER 4: PERFORMANCE STANDARDS, BUILDING REGULATIONS AND BUILDING PERMITS 44

CHAPTER 5: AGRICULTURE 68

CHAPTER 6: AIRSTRIP POLICY 71

CHAPTER 7: DOMESTIC AND NON-DOMESTIC ANIMALS 71

CHAPTER 8: SIGNS ON PRIVATE PROPERTY 74

CHAPTER 9: JUNK VEHICLES ON PRIVATE PROPERTY 77

ORDINANCE 3: ZONING

Chapter 1: General Provisions

Section 1 - SHORT TITLE

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, Minnesota, according to their most logical and appropriate long term use, as established in the Eureka Township Comprehensive Plan.

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 the 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 herein, 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 alternations 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 only. 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 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. 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. Farm buildings and accessory structures to farm buildings

3. Farm drainage and irrigation systems.

4. Forestry, grazing and gardening.

5. One single-family dwelling unit per each quarter-quarter section.

6. Historic Sites.

7. Home occupations.

8. Private stable.

B. 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 the Zoning 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 Activities

a. Agricultural service establishments primarily engaged in performing agricultural or horticultural services on a fee or contract basis.

3. Mining and extraction operations, provided that they otherwise satisfy the requirements of the Mining Ordinance located at Ordinance 6.

4. Public utility and public service structures including electric transmission lines and distribution substations, gas regulator stations, communications and equipment and buildings, pumping stations and reservoirs.

C. Prohibited Uses And Structures

All other uses and structures which are not specifically permitted as a right or by Conditional Use Permit, including public stables and boarding of dogs, shall be prohibited in the Agricultural District.

Chapter 3: Buildable Lots

Section 1 - DENSITY

Lots in the Township of Eureka shall be deemed buildable if they meet each and every one of the following criteria.

A. Minimum lot size 2 acres

B. The lot has 33 feet of frontage abutting a publicly maintained roadway.

C. The lot is 250 feet wide at the location where the home will be placed.

D. A home can be built on the lot that complies with all other setback and density requirements contained in this Ordinance.

E. The lot will support a sewage treatment consistent with this Ordinance and State, Local and Federal requirements for the same.

F. Density requirements in the Township are as follows:

The maximum density for any new construction or for any construction on newly created lots is one home per ¼ ¼ section except in lots which were under separate ownership from abutting lands on or before April 12, 1982, and would have been eligible for a building permit on December 12, 1978, may be developed to a density of four residences per ¼ ¼ section overall. This provision shall not be construed to permit construction of residences on lots that were not created and/or under separate ownership from abutting lands on or before April 12, 1982, to a density beyond one per ¼ ¼ section.

Section 2 - PLATTING OF LAND, CLUSTERING, AND LOT/PARCEL SPLITS

A. Lot Splits Before 1982

A substandard lot or a lot of record shall be deemed a buildable lot provided it:

1. Has 33 feet of frontage on a public right-of-way, and is 250 feet wide at the dwelling site;

2. Was under separate ownership from abutting lands on or before April 12, 1982, except that this requirement shall not apply to a lot which is one unit of a plat heretofore duly approved;

3. Its area is at least two (2) acres;

4. Its development for single-family residential purposes will not violate the general intents and purposes of this Ordinance, including but not limited to the prevention of pollution of applicable waters and surrounding lands, and the preservation of the health, safety, and welfare of the general public;

5. It would have been eligible for a building permit on December 12, 1978.

B. Clustering

1. Provided it is recorded on the deed of each adjoining quarter-quarter section (one quarter-quarter section per dwelling unit over 1) that they are not buildable. (shown to the Town Board and Planning Commission) This is to be done by the owner of the land and completed within the term of one year.

2. Each dwelling unit meets the requirements as set forth above in Chapter 3: Zoning Districts, Section 3:Setbacks and Lot Dimensions.

3. A maximum of 4 dwelling units per quarter-quarter section. A minimum of 80 contiguous acres per cluster.

C. Fees

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 Officer of the Register of Deeds.

Section 3 - SETBACKS AND LOT DIMENSIONS

A. The dwelling units 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. The driveway serving a parcel shall be separated from adjacent driveways on the same side of the road by the following distances:

1. Township road: 100 feet

2. County/State highway as per regulations of County and State, as appropriate.

3. Minimum distance from the intersection of two or more of the above: 300 feet

D. All structures shall be setback as follows for permitted and conditional uses:

1. Lot width: 250 feet at the Dwelling

2. Side yard setbacks for structures: 30 feet

3. Rear yard setbacks for structures: 30 feet

4. Structure Setback from:

a. Township road 100 feet from centerline.

b. County road 110 feet from centerline.

E. All dwellings shall be separated by at least 250 feet from the nearest farm building, however this restriction shall not apply where the dwelling and the farm building are in common ownership.

Section 4 - 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 solely owned by the applicant, in which case the provisions of Ordinance 4, Chapter 2, Section 3, A – Road Specifications shall not apply; or

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. 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.

Chapter 4: Performance Standards, Building Regulations and Building Permits

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-ways, 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.

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 the Township of Eureka 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.

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

On corner lot, 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 and ten 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 50 feet from the intersection of the right-of-way lines.

F. 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 does not apply to short-term parking (six hours or less) and guest parking.

G. 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.

H. 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.

I. Bulk Storage (Liquid)

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

Section 2- PERFORMANCE STANDARDS FOR AGRICULTURAL 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 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:

The farm building is within two-hundred-fifty feet of any non-farm dwelling unit and may be detrimental to living conditions by creating safety hazards or by emitting noise, odor, vibrations or the like.

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

Off street parking shall be determined by the Town Board from time to time. Subject to determination, it shall be on an individual, case by case basis.

B. Other Standards

All commercial operations shall comply with Township Ordinances applicable to commercial uses and nuisances, specifically Ordinance 5, Chapter 4, sections 1- noise and nuisance, 2-odors, 3- toxic matter, 4- exhaust emissions and 5- miscellaneous nuisances.

Section 4 - 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 regulations, no person or persons, firm, or corporation shall erect, convert, alter, wreck, move and/or extend the outside dimensions of any building or buildings or any part thereof, temporarily or permanently, upon any land in the Township of Eureka, without first securing a building permit thereof, except that no permit shall be necessary for the construction, reconstruction or alteration of a building not used for commercial or industrial purposes, where the cost of such work does not exceed five hundred ($500.00) dollars.

2. Responsibility. Neither the issuance of a permit nor compliance with the conditions thereof, nor with the provisions of this Ordinance, 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 Ordinance 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 regulation.

3. 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 regulation.

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, in triplicate. 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:

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.

3. When an application for a commercial or industrial building permit is received by the Town Clerk, said application is to be referred to the Town Board, which shall set a date for public hearing. Notice of such hearing shall be posted and published in accordance with statutes controlling Town Board meetings and public hearings; in addition, applicants shall be required to mail a copy of the notice of hearing at least five (5) days in advance of the hearing date to all adjacent property owners and/or occupants, and proof of such mailing shall be made by affidavit. All costs of publication, posting, mailing and the hearing, or hearings, shall be paid by the applicant as set forth in Ordinance 7.

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 permits issued shall be for duration of one year and shall expire on its first anniversary, but may be renewed at the discretion of the Town Board upon application for such renewal and payment of fees in the amount of 50% of the original fee.

2. 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.

Section 5 - 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, 16B.62, Subdivision 1, when so established by this Ordinance.

C. The Code Enforcement Agency of Eureka Township shall be the Building Official.

Section 6 – HOUSING

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

Section 7 - 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. The sewer line between the building and the disposal tank shall have water tight joints. This sewer pipe shall have a gradient of not less than one-fourth (1/4) inch per foot of pipe except by special permission of the Inspector.

D. Metal septic tanks must comply with the Minnesota Pollution Control Agency Individual Sewage Treatment System Chapter 7080.

Section 8 - SWIMMING POOLS

A. Construction

Permits will be required, as set forth in Ordinance 7, and will be issued by the Clerk, and inspection will be by the Township Building Inspector.

B. Fencing

All pools must be fenced to a height of 4½ feet, with a fence that will not allow any object more than 4 inches square to penetrate.

C. Gates

All pools must have self-closing gates that open away from the pool.

D. Effective Dates

This Ordinance applies only to swimming pools constructed after effective dates, which will be immediately after publication in a legal newspaper.

Section 9 - AIRCRAFT HANGARS

A. Construction

Permits will be required, as set forth in Ordinance 7, and will be issued by the Clerk, and inspection will be by the Township Building Inspector.

B. Where aircraft hangars are located on leased property, the building code standards for commercial hangars shall apply.

Section 10 - TEMPORARY STRUCTURES

Any one temporary building or stand for the sale of agricultural 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.

It shall be unlawful for any person to erect or occupy a temporary dwelling on any lot; provided, however, that 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 underway 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 exceeding six (6) months, the Town Board may proceed to have such extended use abated as a nuisance.

Any temporary building for uses incidental to construction work provided that such building shall be removed upon the completion of the construction work.

Section 11 - MOVING BUILDINGS INTO TOWNSHIP

A. Permit

The moving of any building or structure in the Township of Eureka, or the relocating of any building or structure into the Township of Eureka is prohibited, unless a permit therefore shall first be obtained from the Town Board as provided in this Ordinance.

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, the location at which said building can then be inspected, and the dimensions and estimated value thereof.

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 into the Township of Eureka must be inspected by a certified building inspector and two Town Board members before a permit is granted, and before the building or structure is moved into the Town of Eureka.

E. Requirements

No permitted structure shall be moved from outside the Township of Eureka into the Township unless approved by the Town Board and placed on a proper foundation before such permit be granted. The valuation of the improvement for building purposes shall be determined by the Town Board.

Any permitted structure in the Township of Eureka that is going to be moved to a different location needs prior Town Board approval and

inspection as though it were a structure being moved into the Township as provided herein.

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 from outside the Township of Eureka 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.

Section 12 - TALL NON-AGRICULTURAL STRUCTURES

A. Cell Phone Towers

1. Wireless Telecommunication Facilities

a. 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 regulations are necessary to:

i. Facilitate the provision of wireless telecommunication services to the residents and businesses of the Township of Eureka;

ii. Minimize adverse visual effects of wireless telecommunication towers through careful design and sitting standards;

iii. Avoid potential damage to adjacent properties from wireless telecommunication tower failure through structural standards and setback requirements; and

iv. 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.

b. 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.

c. 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:

i. Towers located in the following locations:

(a) Church sites, when camouflaged as steeples or bell towers; and
(b) Government, school, utility and institutional sites.

ii. Wall or roof-mounted towers.

d. Performance Standards

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

i. Co-Location Requirements

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

(a) 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:

(1) 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.

(2) 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.

(3) 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.

(4) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

ii. Construction and Maintenance of Towers

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

(a) 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).

(b) 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.

iii. Tower Setbacks

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

(a) 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.

(b) 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.

(c) The minimum distance to a residential structure shall be the height of the tower plus fifty (50) feet.

(d) The tower or associated accessory structures shall not encroach upon any public easements.

(e) The setback shall be measured from a point on the base of the tower located nearest the property line to the actual property line.

iv. 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 Ordinance.

v. Height Limitations for Towers

(a) In all zoning districts, the maximum height of any tower, including antennae and other attachments, shall not exceed two hundred (200) feet.

(b) 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.

vi. 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.

vii. Signs and Advertising

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

viii. 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.

ix. Abandoned or Unused Towers or Portions of Towers

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

(a) 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.

(b) 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.

x. 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.

xi. 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.

xii. 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.

xiii. Security Fencing

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

e. Application, Building Permits, Fees and Inspections.

i. Application

Applications for approval to construct towers shall include information as required in the Zoning Ordinance.

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 regulations 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, regulations 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.

2. 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.

Section 13 - 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 or separated by distance or screening from adjacent agriculturally or residentially zoned or used land so that existing property will not be depreciated in value and there will be no deterrence to development of vacant land.

3. The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties.

4. The use in the opinion of the Planning Commission and Town Board is reasonably related to the existing land use.

5. The use is consistent with the purpose of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.

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 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 if deemed appropriate by the Town Board.

Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued, shall require an amended conditional use permit and all procedures shall apply as if a new 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. 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.

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 representative shall appear before the Planning Commission in order to present evidence concerning the proposed conditional use.

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 finding of facts 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 Ordinance.

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 months. To proceed substantially means to make visible improvement to the property. One or more extensions for not more than six (6) months each may be granted by the Town Board for good cause.

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 must be recorded at the office of the Dakota County Recorder.

Section 14 - VARIANCES

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 or particular hardship resulting from strict application of the ordinance.

   'Hardship" as used in connection with the granting of a variance means:

   a. The property in question cannot be put to a reasonable use if used under the conditions allowed by this ordinance;

   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 a hardship if a reasonable use for the property exists under the terms of this Ordinance.

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 or particular hardships claimed, along with the filing fee.

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 acting in an advisory role to the Board of Appeals.

4. The Planning Commission shall hold a public hearing on the proposal. Notice of the time, place and purpose of the public hearing shall be according to Minnesota Statutes 462.354 Subd. 2.

5. The applicant or a representative shall appear before the Planning Commission at the public hearing in order to present evidence concerning the proposed variance.

6. The Planning Commission may recommend the imposing of conditions on the granting of variances to insure compliance and to protect adjacent properties and the public interest. The Board of Adjustment may place additional conditions upon the issuance of a variance.

7. The Planning Commission shall make a finding of facts and recommend to the Town Board of Adjustment such actions or conditions relating to the request. Such findings shall be entered in and made a part of the written record of the Board of Adjustment and Appeals' meeting.

8. Upon receiving the report and recommendation of the Planning Commission, the Town Board, acting as the Board of Adjustment, shall place the report on the agenda for the next regular meeting.

9. Upon receiving the report and recommendation of the Planning Commission, the Town Board acting as the Board of Adjustment shall either:

    a. Approve or disapprove the request as recommended by the Planning Commission; or

    b. Approve or disapprove the recommendation of the Planning Commission with modifications, alterations or differing conditions. Such modifications or differing conditions shall be in writing and made part of the Town Board's records; or

    c. Refer the recommendation back to the Planning Commission for further consideration. This procedure shall be followed only one time for each variance request. If the request is referred back to the Planning Commission, the applicant shall be notified of the extension of time line for action on the request.

10. Approval of variances or appeals shall require passage by a minimum of three (3) members of the Town Board. The Zoning Administrator or Town Clerk shall notify the applicant of the Town Board's action.

11. Decisions of the Planning Commission shall be advisory to the Town Board. The decisions of the Town Board acting as the Board of Adjustment shall be subject to judicial review.

12. No resubmission of a variance application will be allowed for six (6) months without new evidence related to the variance.

13. 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. One or more extensions of not more than six (6) months each may be granted by the Board of Adjustment for good cause.

14. Applications for variances will not be accepted from anyone who is not an owner of land for which the application is made.

15. All variances that are granted by the Town Board must be recorded at the office of the Dakota County Recorder.

Section 15 – MANUFACTURED HOMES AND MOBILE HOMES

A. Manufactured Homes

Single-family manufactured homes placed on individual lots in residential districts shall conform to the following design standards.

1. Placement of such homes shall be in conformance with all zoning regulations of the district in which they are located.

2. The homes shall conform to the Manufactured Home Building Code, as defined in Minnesota Statutes sections 327.31 to 327.35.

3. Such manufactured housing shall have a minimum habitable floor area of eight hundred (800) square feet. No such home shall have a width of less than twenty (20) feet.

4. Roof lines must have at least a three-twelfths pitch; flat or shed roofs are not permitted.

5. Such home shall be placed on a permanent perimeter foundation. The foundation must meet requirements listed in the Uniform Building Code, as adopted by the state.

6. Manufactured homes shall have exterior siding which is of a conventional exterior dwelling-type material.

B. Mobile Homes

It shall be unlawful to develop or extend any manufactured or mobile home park unless a valid permit is issued by the Town Board. Approval of such permits shall be made by the Town Board.

1. All applications for permits shall contain the following information:

   a. Name and address of applicant.

   b. Location and legal description of the development.

   c. Complete site plans for the specific development. The plans should include the topography and grading plan for the site; layout of mobilehome lots, roadways and walkways; location of all utilities; drainage plans; location of permanent buildings; landscaping and screening plan; park areas and recreational equipment.

   d. The Planning Commission shall review all applications for permits issued hereunder and shall hold such hearings as deemed necessary. The findings and recommendations of the Planning Commission shall be forwarded to the Town Board for appropriate action.

Chapter 5: 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 transverse town roads with their machinery, equipment or other implements at any time.

D. This Ordinance shall take effect and be enforced from and after its passage and publication, according to law.

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:

Animal Units	Minimum Distance
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 regulations 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 IV, 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 Regulations

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

Chapter 6: Airstrip Policy

No 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. Such license shall be issued for one year. The operator of an airstrip shall pay an annual license fee as set forth in Ordinance 7. 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 house, other than the dwelling occupied by the operator of the airstrip, unless both the owner and lessee of said adjoining dwelling house consent in advance in writing to the establishment of said airstrip. All applicable state and federal standards shall be adhered to.

Chapter 7: Domestic and Non-Domestic Animals

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, Minnesota.

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. Dog Kennel Licenses Required

From and after the date of enactment hereof, no private kennel as defined in Ordinance 1, Chapter 4, shall be operated or maintained within the Township of Eureka, unless the operator thereof shall first have applied for and obtained a kennel operators license in conjunction with the Conditional Use Permit. Such license shall be issued for one year. The operator of a private kennel shall pay an annual license fee as set forth in

Ordinance 7. No private kennel, other than one in operation at the time of the passage of this ordinance, shall be established within five hundred (500) feet of any dwelling house, other than the dwelling occupied by the operator of the kennel, unless both the owner and lessee of said adjoining dwelling house consent in advance in writing to the establishment of said kennel.

B. Maintenance Requirements

Any private kennel licensed hereunder shall be kept and maintained at all times in a clean and sanitary condition, and dogs kept therein shall be reasonably restrained from annoying the neighborhood or general public by loud, frequent or habitual barking, yelping or howling.

C. Violation

Any violation of this section shall be a misdemeanor.

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 regulations under the conditions noted:

1. Licensed humane societies

2. Animal control officers

3. Licensed veterinary hospitals or clinics

4. 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.

5. Any person who owned, possessed, kept or harbored exotic animal(s) on or before the effective date of this Ordinance, provided that all 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 ordinance but shall not be permitted to increase the number of exotic animals held, kept, harbored or maintained within the Township.

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 boarded at any time.

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.

E. Minnesota Rules regarding feedlots shall apply.

Chapter 8: Signs on Private Property

The purpose of this section is to protect, insure, 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 Ordinance.

Section 1 - PERMIT REQUIRED

Except as otherwise provided in this Ordinance, 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 zones. These limitations shall not apply to the posting of conventional “no trespassing” signs in accordance with state law.

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

The regulations 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.

Section 4 - PUBLIC RIGHT-OF-WAY

Only official identification, directional control signs shall be allowed within the public right-of-way.

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 with accumulative area larger than fifty (50) square footage shall require a Conditional Use Permit.

C. Accumulative square feet shall not exceed two hundred (200) square feet.

Section 6 - OFF SITE ADVERTISING SIGNS

Off-site advertising signs may be permitted in all districts as conditional uses but must adhere to the same conditions as stated in Section 5.

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 Ordinance.

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 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 flashing, intermittent rotating or moving light, or lights as a conditional use.

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 Ordinance, 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 regulation. Non-conforming signs must be removed or modified to conform to this Ordinance within three (3) years of adoption of this Ordinance.

Chapter 9: Junk Vehicles on Private Property

Section 1 – INTERIM USE PERMIT REQUIRED

A. No person, firm, or corporation shall erect, establish, or maintain an automobile graveyard within the limits of the Township of Eureka, Dakota County, Minnesota without first obtaining an interim use permit from the Town Board or its authorized representation.

D. Before the Town Board or its representative shall issue an interim use permit for a graveyard for vehicles, a public hearing shall be held and all adjoining property owners shall be notified by mail by the Town Clerk nine (9) days prior to said public hearing. Notice of public hearing shall be published, as law requires. An affidavit of mailing shall be filed by the Clerk.

E. The applicant must comply with all state, federal and local laws and regulations concerning this interim use.

Section 2 - LOCATION OF JUNK VEHICLES

No person, firm or corporation shall locate junk vehicles within the boundaries of the Township of Eureka, except in an automobile graveyard for which an interim use permit has been granted. .

Section 3 - APPLICATIONS

A. No interim use permit for an automobile graveyard shall be issued by the Town Board unless and until the person requesting same first make application to the Town Clerk and shall submit therewith all information and data hereinafter specified. The application shall be in writing, signed by the applicant and shall include the following:

1. Name and address of applicant.

2. Location and legal description of premises to be used for graveyard.

3. Complete plan of the graveyard in conformity with Section 5 - Requirements below.

4. Plans and specifications of all buildings, improvements, and facilities constructed or to be constructed within the graveyard.

5. All information as the Town Board may request to enable the Board to determine if the proposed graveyard will comply with legal requirements and will insure the protection of the best interests of the Township and citizens as to Health, Welfare, and Public Safety.

B. The application, and all accompanying plans and specifications shall be filed in triplicate. The Town Board shall make such investigation of the applicant, the plans, the site, and any other related subjects as it may deem necessary and proper.

Section 4 - FEE

A. An interim permit fee in the amount set forth in Ordinance 7 shall be paid by the applicant at the time the permit is granted and issued. A renewal fee in the amount set forth in Ordinance 7 shall be paid annually.

B. A Bond in such amount as the Town Board deems necessary shall be posted at the time the permit fee is paid. This Bond shall run concurrent with each permit granted in order to cover any costs to Township for clean-up, in the event of discontinuation of any graveyard operation.

Section 5 - REQUIREMENTS

The automobile graveyard shall conform to the following requirements:

A. All applicable provisions of the Township of Eureka Zoning Ordinance.

B. The automobile graveyard shall be a minimum of three acres.

C. The site shall be well-drained and properly graded to insure good drainage of surface and storm waters, and to insure freedom from stagnant pools of water.

D. Junk vehicles shall be kept only in enclosed buildings or in automobile graveyards which are adequately screened. Adequate screening requires a solid board fence at least six feet high surrounding the automobile graveyards. The fence shall be constructed of 3/4 No. 3 Ponderosas Lumber or its equivalent; and shall be kept painted, in good repair and well maintained.

E. The applicant shall provide a “Buffer Zone” of not less than one hundred (100) feet from the center of any abutting public road and not less than thirty (30) feet in width on all other sides; which buffer zone shall surround the perimeter of the automobile graveyard and shall be landscaped with the planting of appropriate grass and/or sod and shrubbery which shall be maintained and kept by the owners and/or operators of the said automobile graveyard in a net and presentable appearance.

F. Any additional special requirements as may be required by the Town Board to insure the protection of the best interest of the Township of Eureka and the general health, welfare, and public safety.

G. Prior to discontinuing a graveyard, the applicant shall remove all junk vehicles and parts thereof and remove all evidence of such graveyard.

Section 6 - FIRES

No open fires shall be permitted within the graveyard except in a designated burner, and no burning of automobiles or accessories shall be permitted without the permission of the Fire Marshall.

Section 7 - ANNUAL PERMIT

A. Before January 10 of each year, the operator of any automobile graveyard shall obtain a permit and pay and annual license fee as set forth in Ordinance 7 to the Township of Eureka.

B. All automobile graveyards established prior to the adoption of this Ordinance shall be subject to its provisions to the extent allowed by law.

Section 8 - REVOCATION

A. Failure to comply with all provisions of Chapter 9 or with all provisions of any special nature imposed upon automobile graveyards or by the permit issued therefore, shall constitute a violation of this Ordinance, and may constitute a misdemeanor, and be cause for revocation of any permit previously issued or the refusal to renew any permit.

B. Upon notification of any failure to comply with any and all regulations of Chapter 9 to operator and/or owner, said operator and/or owner shall have thirty (30) days to perform in accordance, or be in jeopardy of having permit revoked.

Section 9 - DUTIES AT TERMINATION OF PERMIT

At the expiration of any license period or at the termination and revocation of any permit, all junk vehicles, parts or other materials shall be removed and within sixty (60) days of the termination of the license or revocation of the permit the premises shall be cleaned up and restored to good order.

Section 10 - PENALTIES

Any person or persons, firm, or corporation violating the provisions of Chapter 9 shall be guilty of a misdemeanor, and upon conviction thereof shall be punished pursuant to Minnesota Law. Each ten (10) days that the violation is permitted to exist shall constitute a separate offense.

ORDINANCE 4: PUBLIC SAFETY

CHAPTER 1: EMERGENCY SERVICES 82

CHAPTER 2: ROADS 82

CHAPTER 3: UTILITY LINES 89

CHAPTER 4: FIREARMS..... 89

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 ordinance are to protect public safety, reduce interferences with public travel, protect the public's interest in its Rights-of-Way, and to provide for the efficient and uniform administration of the Township's road Rights-of-Way. The Town Board finds that the regulations, requirements, and restrictions, as set forth in this ordinance, 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 Rights-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 REGULATIONS

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 - 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 6 - 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 ordinance, 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 7 - 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 8 - 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 9 - 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 10 - 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 11 - 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

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.

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 12 - TOWN AND CONTRACTORS

The prohibitions, requirements, and restrictions contained in this ordinance 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 13 - PERMISSION

Any person receiving permission or a permit from the Town Board as provided in this ordinance 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 ordinance.

Section 14 - ENFORCEMENT AND PENALTY

A. Correction Order

Upon discovery of a violation of this ordinance, 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 ordinance.

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 ordinance 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 15 - SAVINGS CLAUSE

The failure of the Town Board to exercise, and any delay in exercising, any right under this Ordinance, 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 16 – 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 ordinance 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 lines

Section 1 – REQUIREMENT OF PERMIT TO INSTALL

Any and all utility companies must obtain a permit prior to excavation in a Township right of way before disturbing ground to bury a line. Utility companies must post a five-hundred-dollars ($500.00) bond to cover the damages and administrative expenses associated with rebuilding the property to its “as built” state. The Utility shall provide said funds to the Town Clerk.

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 Ordinance 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 Ordinance 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 Ordinance 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 Ordinance 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.

ORDINANCE 5: LIVABILITY

CHAPTER 1: PARKS AND RECREATION 93

CHAPTER 2: SCHOOLS, LIBRARIES AND OTHER PUBLIC BUILDINGS 93

CHAPTER 3: OUTDOOR ASSEMBLIES 93

CHAPTER 4: NOISE AND NUISANCE 100

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 Ordinance 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 Ordinance.

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 five hundred (500) persons are in attendance or are reasonably expected to be in attendance, or at which between one hundred (100) and five hundred (500) 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.

B. A separate license shall be required for each day and each location at which five hundred (500) people assemble or can reasonably be anticipated to assemble or at which between one hundred (100) and five hundred (500) 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.

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 not permit the sound of the assembly to carry unreasonably beyond the enclosed boundary of the location of the assembly.

E. This Ordinance 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 five hundred (500) people the maximum capacity of the structure where the assembly is held.

F. This Ordinance 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 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 ordinances of the Township of Eureka or the County of Dakota, or regulation of the Minnesota State Department of Health.

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. Physicians and nurses licensed to practice in Minnesota sufficient to provide medical care for the maximum number of people to be assembled at the rate of at least one physician and nurse for one thousand (1,000) people, together with an enclosed covered structure where treatment may be rendered, containing separately

enclosed treatment rooms for each physician, and at least two emergency ambulances, with attendants, for each one thousand (1,000) people.

6. 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.

7. 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.

8. 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 hundred (500) persons.

9. 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 and ordinances 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.

10. 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).

11. 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.

12. All reasonably necessary precautions to insure that the sound of the assembly will not carry unreasonably beyond the enclosed boundaries of the location of the assembly.

13. Administrative control center with telephones where the local authorities can contact the sponsors and law enforcement personnel inside the assembly area.

14. A bond, filed with the Clerk of the Township of Eureka, either in cash or underwritten by a surety company licensed to do business in Minnesota, as set forth in Ordinance 7, shall indemnify and hold harmless this political subdivision or any of its agents, officers, servants, and employees from any liability or causes of action which might arise by reason or granting this license, payment of employees, or services rendered by the granting authorities, and from any costs incurred in cleaning up any waste material produced or left by the assembly.

Section 4 - APPLICATION

A. Application for a license to hold an actual or anticipated outdoor assembly as required by this Ordinance shall be made in writing to the Town Board at least thirty (30) days in advance of such assembly.

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 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. The maximum number of persons that the applicant shall permit to assemble at any time, not to exceed the maximum number that can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the zoning regulations of the Township of Eureka or County of Dakota if the assembly is to continue overnight.

7. The maximum number of tickets to be sold, if any.

8. The plans of the applicant to limit the maximum number of people permitted to assemble.

9. The plans for fencing the location of the assembly and the gates contained in such fence.

10. The plans for supplying potable water including the source, amount available, and location of outlets.

11. The plans for providing toilet and lavatory facilities including the source, number, and location type, and means of disposing of waste deposited.

12. The plans for holding, collection and disposing of solid waste material.

13. The plans to provide for medical facilities including the location and construction of a medical structure; the names, addresses, and hours of availability of physicians and nurses; and provisions for emergency ambulance service.

14. The plans, if any, to illuminate the location of the assembly including the source and amount of power and location of lights.

15. The plans for parking vehicles including the size and location of lots, points of highway access, and interior roads including routes between highway access and parking lots.

16. The plans for telephone service including the source, number, and location of telephones.

17. The plans for camping facilities, if any, including facilities available and their location.

18. The plans for security, including the number of guards, their deployment, and their name, addresses, credentials, and hours of availability.

19. The plans for fire protection as may be required by Section 3.B. 11 herein.

20. The plans for sound control and sound amplification if any, including number, location, and power of amplifiers and speakers.

21. The plans for food concessions and concessionaires who will be allowed to operate on the grounds including the names and addresses of all concession vendors and their license or permit numbers.

22. The plans for area traffic control for access to, egress from, and exit onto public roads and highways.

D. The application shall include the bond required in Section 3.B. 14 and the license fee in accord with Ordinance 7.

Section 5 - ISSUANCE

The application for a license shall be processed within twenty (20) days of receipt and shall be issued if all conditions are complied with.

Section 6 - REVOCATION

The license may be revoked by the Town Board at any time if any of the conditions necessary for the issuing of or contained in the license are not complied with, if any condition previously met ceases to be complied with, or if any other provision of this Ordinance is violated.

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 create any disturbance; engage in brawling or fighting; disturb any meeting or persons using the premises; engage in offensive, obscene, or abusing language; or conduct himself in a boisterous or noisy manner tending reasonably to arouse alarm, anger, or resentment in others.

E. No person shall engage in conduct that does or reasonably may be expected to cause or result in injury or destruction to public or private property, whether real or personal.

F. No person shall engage in any conduct that violates a state, county, or local law or ordinance.

Section 8 - VARIANCE

The Town Board may, by majority resolution, grant a variance from the requirements of this Ordinance in any particular case where the applicant can show that strict compliance with this Ordinance 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 ordinance 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.

Chapter 4: Noise and 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 - MISCELLANEOUS NUISANCES

It shall be unlawful to create a nuisance affecting the health, peace or safety of any person.

ORDINANCE 6: MINING

CHAPTER 1: TITLE 103

CHAPTER 2: PURPOSE.....103

CHAPTER 3: DEFINITIONS 103

CHAPTER 4: PERMIT REQUIRED.....107

CHAPTER 5: MINERAL EXTRACTION PERMIT APPLICATION REQUIREMENTS 109

CHAPTER 6: PERMITTING PROCEDURE 112

CHAPTER 7: MINERAL EXTRACTION PERFORMANCE STANDARDS 114

CHAPTER 8: TERMINATION, VIOLATIONS AND PENALTIES.....122

CHAPTER 9: ENFORCEMENT 124

CHAPTER 10: FEES.....124

CHAPTER 11: FINANCIAL GUARANTY.....125

CHAPTER 12: LIABILITY INSURANCE.....126

CHAPTER 13: PRE-EXISTING MINERAL EXTRACTION FACILITIES.....126

CHAPTER 14: VALIDITY 138

CHAPTER 15: EFFECTIVE DATE.....138

ORDINANCE 6: MINING

Chapter 1: Title

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.

A. Establish permitting requirements, environmental review procedures and performance standards to regulate mineral extraction.

A. Establish standards that distinguish between longer term and shorter term mineral extraction activities.

A. Establish standards that prevent or minimize environmental and aesthetic impacts on extracted properties, adjacent properties and the community as a whole.

A. 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.

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 Section 7.01 B and in Section 7.01 K and in Section 13.02 H and in Section 13.02 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.

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 ordinance 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 Ordinance.

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 Section 8, Termination, Violations and Penalties, of this Ordinance.

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.

A. 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.

A. The structure and site must have an appearance that will not unreasonably create an adverse effect upon adjacent residential properties.

A. The use must be reasonably related to existing land use.

A. The use must be consistent with the purposes of the zoning ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.

A. The use must be in conformance with the Eureka Township Comprehensive Plan.

A. The use must not cause traffic hazard or congestion.

A. Existing land uses nearby must not be adversely affected unreasonably by intrusion of noise, glare or general unsightliness.

A. The use must not cause significant adverse impact to surface or ground water resources.

A. 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 ordinance.

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.

A. 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.

A. Curb cuts, utility hook-ups or street openings for which another permit has been issued by the Township.

A. Excavation or removal of less than four hundred (400) cubic yards of material per year for use on the owner's property.

A. 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 an authorized representative.

A. Name, address, phone number and signature of the landowner.

A. Level of permit for which the application is being made.

A. Acreage and complete legal description of the property on which the mineral extraction will be located, including all contiguous property owned by the landowners.

A. Acreage and complete legal description of the property on which the mineral extraction permit will apply.

A. Type and estimated quantity of material to be extracted.

A. The estimated time required to complete the proposed operation and reclamation, including starting and completion dates.

A. A description of all vehicles and equipment proposed to be used by the Operator in the operation of the facility.

A. 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.

A. The total estimated amount of all other daily vehicle traffic from workers, customers, and service vehicles.

A. A description of the haul routes within the Township to be used in the operation of the facility.

A. 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.

A. 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.

A. 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.

A. 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.

A. 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.

A. A general description of the depth, quantity, quality and intended uses of the mineral deposits on the subject property.

A. A map of current topography of the subject property, illustrated by contours not exceeding ten-foot intervals.

A. A plan showing proposed topography of the subject property after mineral extraction has been completed, illustrated by contours not exceeding two (2)-foot intervals.

A. A phasing plan which illustrates the sequencing of mineral extraction, the locations of processing equipment, mineral stockpiles, staging areas, accessory uses and access routes.

A. Copies of Minnesota Pollution Control Agency (MPCA) application documents, EAW documents, EIS documents if required, and operating permits.

A. 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.

A. 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.

A. A description of the plan to mitigate potential impacts resulting from mineral extraction.

A. A description of site screening, landscaping and security fencing.

A. An End Use Plan.

A. A description of site reclamation in each phase of operation and upon completion of mineral extraction on the subject property.

A. Recommendations from Dakota County Soil and Water Conservation Service and the appropriate watershed management organization as required in Section 7.01.U12.

A. 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.

A. 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 Ordinance. 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 Ordinance.

A. 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 Ordinance, outlining the application process and permit requirements.

A. 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 ten (10) days, will identify and notify the applicant of additional information to be submitted.

A. 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.

A. The independent engineering firm will submit the results of its findings, along with any recommendations for actions, to the Planning Commission.

A. Within thirty (30) days of receipt of a complete mineral extraction permit application, the Planning Commission, together with the registered engineer, will prepare an Environmental Assessment Worksheet (EAW), according to Minnesota Rules, Chapter 4410. After this process is completed, the Town Board will determine whether an Environmental Impact Statement (EIS) is required.

A. Upon completion of the environmental review process, the Commission will process the mineral extraction permit. The Commission may require that the applicant submit additional information to address or clarify any issues raised in the environmental review. The formal review process will commence after completion of the environmental review or upon receipt of additional information required.

A. Within thirty (30) days of receipt of all required information and upon completion of the environmental review process, the Planning Commission shall hold a public hearing for the mineral extraction permit. The hearing will satisfy the hearing requirements of the interim use permit.

A. After the public hearing, the Planning Commission shall make findings on the permit application and submit recommendations to the Town Board.

A. If the Town Board cannot act upon the permit application within the permitting timeframes, the Town Board shall notify the applicant in writing to request an extension of time and stating the reasons for the extension.

A. 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 by the Town Board.

A. 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.

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 Section 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 ordinance 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, 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 Years 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.

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 or asphalt production plant, shall be strictly prohibited. A concrete recycling plant and an asphalt recycling plant are also prohibited, except as stated in Section 7.01 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 Section 7.01 B. Accessory uses will terminate when the principal use terminates.

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 Ordinance, 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 Section 7.01 M, then, in addition, earthen berms shall be constructed along the adjoining property line. 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.

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 ordinance 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.

a. The graded or back-filled area shall not collect or permit stagnant water to remain therein.

a. 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.

a. 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 ordinance.

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 Section 4.02 as well as recommendations from the County, the Soil and Water Conservation District and the independent engineering firm selected by the Town Board under Section 6.01(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 Section 8.01 C is more demanding than Section 8.01 B, then Section 8.01 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 Ordinance 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 can not 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 Section 13 applies only to those pre-existing mineral extraction facilities described in this Section 13.01 relating to the property legally described in Section 13.09.

Notwithstanding Section 4.01, 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 Sections 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 Section 13.02 and as long as Sections 13.03 through 13.09 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 Section 13.01 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 Years 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 Section 4.01, 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 Section 13.02 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 Section 13.02 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 ordinance 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 Section 13.08:

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 ordinance 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 Section 13.06 B is more demanding than Section 13.06 A, then Section 13.06 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 Ordinance 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 can not 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 Ordinance.

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 Ordinance, 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 ordinance 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 ordinance. 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
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 Section 13.01 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 ½ of the NW ¼ of the said Section 7; thence North along the East line of the West 1716 feet of the said S ½ of the NW ¼ , a distance of 600 feet, more or less, to the North line of the South 600 feet of the said S ½ of the NW ¼; 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 ½ of the NW ¼; 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 ½ of the NW ¼; thence East along the said North line to the West line of the East 630 feet of the said S ½ of the NW ¼; 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 ¼ of the NW ¼; 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 ½ of the NW ¼; 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 ½ of the NW ¼; 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.

Chapter 15: Effective Date

The effective date of this Ordinance shall be upon its passage and publication according to law.

ORDINANCE 7: FEES

CHAPTER 1: PAYMENT OF FEES 140

CHAPTER 2: ESTABLISHMENT OF FEES 140

ORDINANCE 7: FEES

Chapter 1: Payment Of Fees

Required application fees 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.

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 thirty (30) days of final action on the matter by the Town Board.

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
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

NO.	TYPE OF APPLICATION OR PERMIT	FEE AMOUNT
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.	Registration of Legal Non-Conforming Uses	$50.00
F.	Approach Permit	$50.00
G.	Building Permit a. Initial application fee: b. Additional building permit fee: c. Agricultural building zoning compliance site inspection fee:	Fees as set by Minnesota State Building Code fee schedule most recently adopted by the Town Board. $50.00 $25.00 $25.00
H.	Renewal of Building Permit	Not to exceed 50% of original building permit fee
I.	Permit for Moving of Building or Structure	$150 plus building inspector fees
J.	Conditional Use Permit	$250.00. This fee covers publication for the required public hearing, the application and meetings. The applicant shall be responsible for all expenses and outside fees incurred by the Town Board in processing the application. The Town Board shall require escrow of funds for fees for attorneys, or professional services and/or other outside expenses prior to incurring such costs. Applicants shall be

NO.	TYPE OF APPLICATION OR PERMIT	FEE AMOUNT
		permitted to withdraw their applications at any time, but shall not be entitled to refund of escrow funds already expended.
K.	Amended Conditional Use Permit	$250.00 This fee covers publication for the required public hearing, the application and meetings. The applicant shall be responsible for all expenses and outside fees incurred by the Town Board in processing the application. The Town Board shall require escrow of funds for fees for attorneys, or professional services and/or other outside expenses prior to incurring such costs. Applicants shall be permitted to withdraw their applications at any time, but shall not be entitled to refund of escrow funds already expended.
L.	Review of Conditional Use Permit	$25.00
M.	Sign Permit	$25.00 plus building inspector fees
N.	Variance	$250.00. This fee covers publication for the required public hearing, the application and meetings. The applicant shall be responsible for all expenses and outside fees incurred by the Town Board in processing the application. The Town Board shall require escrow of funds for fees for attorneys, or professional services and/or other outside expenses prior to incurring such costs. Applicants shall be

NO.	TYPE OF APPLICATION OR PERMIT	FEE AMOUNT
		permitted to withdraw their applications at any time, but shall not be entitled to refund of escrow funds already expended.
O.	Kennel Operators License	$100.00
P.	Interim use Permit, or Renewal of Interim Use Permit (Except Mining)	$250.00 This fee covers publication for the required public hearing, the application and meetings. The applicant shall be responsible for all expenses and outside fees incurred by the Town Board in processing the application. The Town Board shall require escrow of funds for fees for attorneys, or professional services and/or other outside expenses prior to incurring such costs. Applicants shall be permitted to withdraw their applications at any time, but shall not be entitled to refund of escrow funds already expended. Fees for attorneys, or professional services and/or other outside expenses shall be reimbursed by the applicant before any permit may issue.
Q.	Swimming Pools	$25.00 in addition to building inspector fees
R.	Permit fee for hangar	Fees as set by state building code fee schedule as approved by the Town Board.
S.	Inspection fee for inspection by tTown bBoard or planning commission member inspections connected to a permit application or renewal	$25 per inspecting member
T.	Amendment to Zoning Ordinance Application Fee	$250.00 This fee covers publication for the required

NO.	TYPE OF APPLICATION OR PERMIT	FEE AMOUNT
		public hearing, the application and meetings. The applicant shall be responsible for all expenses and outside fees incurred by the Town Board in processing the application. The Town Board shall require escrow of funds for fees for attorneys, or professional services and/or other outside expenses prior to incurring such costs. Applicants shall be permitted to withdraw their applications at any time, but shall not be entitled to refund of escrow funds already expended.
U.	Application Fee for Subdividing or Platting of New Land	$250.00 This fee covers publication for the required public hearing, the application and meetings. The applicant shall be responsible for all expenses and outside fees incurred by the Town Board in processing the application. The Town Board shall require escrow of funds for fees for attorneys, or professional services and/or other outside expenses prior to incurring such costs. Applicants shall be permitted to withdraw their applications at any time, but shall not be entitled to refund of escrow funds already expended.
V.	Permit Fee Utility Company	$25.00

NO.	TYPE OF APPLICATION OR PERMIT	FEE AMOUNT
W.	Watershed Management Fee Schedule	$250.00. This fee covers publication for the required public hearing, the application and meetings. The applicant shall be responsible for all expenses and outside fees incurred by the Town Board in processing the application. The Town Board shall require escrow of funds for fees for attorneys, or professional services and/or other outside expenses prior to incurring such costs. Applicants shall be permitted to withdraw their applications at any time, but shall not be entitled to refund of escrow funds already expended.
X.	Storm Water Pollution Prevention Plan (SWPPP) Security	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.

NO.	TYPE OF APPLICATION OR PERMIT	ESCROW AMOUNT
A.	Escrow For Initial Application For New Mineral Extraction Facility	$7,500

The application for a building permit shall be accompanied-by an inspection fee.

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, in the event the total amount of the fees shall be increased by the amount necessary to pay for such professional services.

ORDINANCE 8: ENFORCEMENT OF ORDINANCES

CHAPTER 1: PENALTIES 148

ORDINANCE 8: ENFORCEMENT OF ORDINANCES

Chapter 1: PENALTIES

In the event of a violation or threatened violation of this Ordinance, 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, 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 of this Ordinance 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 this Ordinance.

Adopted this 7th day of June, 2005.

_____
Chair of Town Board, Connie Anderson

ATTEST:

_____
Clerk/ Treasurer, Nanett Leine

Title, Summary and Notice published Thisweek Newspaper June 18, 2005

ORDINANCE 9: WATERSHED MANAGEMENT

CHAPTER 1: NORTH CANNON RIVER WMO 150

ORDINANCE 9: WATERSHED MANAGEMENT

Chapter 1: North Cannon River WMO

AN ORDINANCE ESTABLISHING EROSION CONTROL AND STORM WATER MANAGEMENT REQUIREMENTS FOR LAND DISTURBANCES

THE BOARD of EUREKA TOWNSHIP DOES ORDAIN:

Section 1: Purpose

1.1 The purpose of this Ordinance 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 Ordinance requires that all land disturbance activities, whether requiring a permit under this Ordinance 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 Ordinance 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 Ordinance 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 the Ordinance 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 Ordinance, 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 Ordinance.

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 Ordinance. 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 Ordinance, 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 Ordinance 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 Ordinance, 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 Ordinance, 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 Ordinance shall be returned to the applicant for correction and resubmittal.

5.4 <u>The minimum engineered construction plan submittal requirements are:</u>

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 Soil Group	A	B	C	D	Impervious
Runoff Curve Number	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 Ordinance, 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 an 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 Ordinance.

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 Ordinance.

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 Ordinance.

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 Ordinance.

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 Ordinance 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 applicants expense including staff time, attorneys' fees.

8.5 If at anytime the SWPPP security falls below 50% of the required amount, the applicant shall restore the security to the required amount.

8.6 When the Ordinance 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 Ordinance. 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 Ordinance. 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 Ordinance in cases where the strict enforcement of the Ordinance will cause undue hardship. Conditions may be imposed on a granted variance to limit its scope to only those portion of the Ordinance 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 Ordinance; 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 Ordinance provisions are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other Ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

Section 13: Severability

13.1 The provisions of this Ordinance are severable, and if any provisions of this Ordinance, or application of any provision of this Ordinance to any circumstance, are held invalid, the application of such provision to other circumstances, and the remainder of this Ordinance must not be affected thereby.

Section 14: Effective Date

14.1 This Ordinance will take effect and be in force after its passage and official publication.

Adopted this 12th day of June, 2006 by the Town Board of Eureka Township, Minnesota

_____

Cory Behrendt, Chairman

ATTEST:

_____

Nanett Champlain, Eureka Township Clerk/ Treasurer