

ORDINANCE 3: ZONING

CHAPTER 1: GENERAL PROVISIONS..... 44

CHAPTER 2: ZONING DISTRICTS 48

CHAPTER 3: BUILDABLE LOTS 50

CHAPTER 4: PERFORMANCE STANDARDS, BUILDING REGULATIONS AND
BUILDING PERMITS 55

CHAPTER 5: AGRICULTURE 83

CHAPTER 6: AIRSTRIP POLICY 86

CHAPTER 7: DOMESTIC AND NON-DOMESTIC ANIMALS 87

CHAPTER 8: SIGNS ON PRIVATE PROPERTY 90

CHAPTER 9: JUNK VEHICLES ON PRIVATE PROPERTY 94

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, Dakota County, 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 alterations which do not extend or intensify the non-conforming use.

Section 5 - REGISTRATION OF LEGAL NON-CONFORMING USES

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

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

B. Permitted Uses and Structures

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

1. Any and all forms of commercial agriculture and commercial horticulture, as defined by this Ordinance.
2. 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. Accessory structures to single-family dwellings, such as detached private garages, tool sheds, and other such structures, for the storage of domestic supplies and equipment,
7. Historic Sites.
8. Home occupations.
9. Private stables.
10. Private dog kennels.
11. Cell phone towers or wireless communication facilities as delineated in Ordinance 3, Chapter 4, Section 14, provided they otherwise satisfy the requirements of said ordinance.

C. Conditional Uses and Structures

The following conditional uses may be approved by the Town Board in the Agricultural district, provided that the provisions and requirements in Chapter 4 of 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 service establishments primarily engaged in performing agricultural or horticultural services on a fee or contract basis.
3. Public utility and public service structures including electric transmission lines and distribution substations, gas regulator stations, communications equipment and buildings, pumping stations and reservoirs.
4. Wind energy conversion systems (WECS) and alternative energy systems, provided that they otherwise satisfy the requirements of Ordinance 3, Chapter 4, Section 14B.
5. Cell phone towers or wireless communication facilities as delineated in Ordinance 3, Chapter 4, Section 14, provided they otherwise satisfy the requirements of said ordinance.

D. Interim Uses and Structures

1. Mining and extraction operations, provided that they otherwise satisfy the requirements of the Mining Ordinance located at Ordinance 6.
2. Airstrips, provided that they otherwise satisfy the requirements of Ordinance 3, Chapter 6.
3. Automobile graveyards, provided that they otherwise satisfy the requirements of Ordinance 3, Chapter 9.

E. Prohibited Uses and Structures

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

Chapter 3: Residential Buildable Lots

Section 1 - DENSITY

Lots in the Township of Eureka shall be deemed buildable for single-family residential purposes 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 $\frac{1}{4}$ $\frac{1}{4}$ section except that 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 $\frac{1}{4}$ $\frac{1}{4}$ 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 $\frac{1}{4}$ $\frac{1}{4}$ section.

- G. The lot is a separately conveyed parcel with a separate legal description and its own Property Identification Number (PIN) assigned by the Dakota County Assessor's Office.

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

- A. Lot Splits Before 1982
 - 1. A substandard lot or a lot of record shall be deemed a buildable lot for single-family residential purposes provided it meets all of the following requirements:
 - a. It has 33 feet of frontage on a public right-of-way, and is 250 feet wide at the dwelling site;

- b. It was created and/or under separate ownership from abutting lands on or before April 12, 1982;
 - c. Its area is at least two (2) acres;
 - d. 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;
 - e. It would have been eligible for a building permit on December 12, 1978
- B. A substandard lot or lot of record that can be demonstrated to meet all of the requirements of Ordinance 3, Chapter 3, Section 2 (A), and that after creation of the lot was subsequently consolidated with an abutting lot for the purposes of real estate sale or county tax consolidation, shall be deemed a buildable lot for single-family residential purposes provided it meets all of the following requirements:
1. The lot(s) involved in the consolidation shall be re-created to conform to the exact boundaries and dimensions as they existed when the lot of record was originally created.
 2. The re-creation of the lots shall be completed through an approved lot split that shall be approved by the Eureka Township Board and filed in the Office of the Dakota County Recorder.
 3. Any use or structure currently existing on the re-created lots shall conform to all building setback and driveway requirements of this ordinance.
 4. The recreated lots must comply with the zoning density requirements described in this ordinance for lots created and/or under separate ownership on or before April 12, 1982.
- C. 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.
4. When an application for clustering is received by the Town Clerk, said application shall be referred to the Planning Commission, which shall set a date for a public hearing. Notice of such hearing shall be posted and published in accordance with Minnesota State Statutes controlling public hearings. In addition, the Town Clerk shall 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 for publication, posting, mailing, and the hearing(s) shall be paid by the applicant as set forth in Ordinance 7.

D. 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 Office 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. 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.

- D. 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 owned solely 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.

- B. Driveways shall meet the following requirements:
 - 1. Driveways that take access on township roads shall be located a minimum of ten (10) feet from the property line or as necessary to provide adequate drainage onto the parcel the driveway serves.
 - 2. Driveways that take access on County/State highways shall conform to regulations of the County and State, as appropriate.
 - 3. Driveways must be located a minimum of 300 feet from the intersection of any two or more public roads.
- C. All buildings must be served by an approach that meets the requirements for approaches established in this ordinance.

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.

5. Attachment to Ground - All structures, whether temporary or permanent in nature, shall be securely attached to the ground.

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.

F. Landscaping

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

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

G. Parking

Parking spaces accessory to one-family dwellings shall be located on the same lot. Parking in residential areas (off-street and on-street) shall be

limited to the use of the residents of those homes. The number of vehicles parked on or in front of a residential lot shall not exceed double the number of persons residing on the premises and having an automobile driver's license. This does not apply to short-term parking (six hours or less) and guest parking.

H. Soil Erosion And Sedimentation Control

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

I. Sewage Disposal Standards

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

J. Bulk Storage (Liquid)

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

Section 2- PERFORMANCE STANDARDS FOR 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 Ordinance 3, Chapter 4, Section 1 and other Township Ordinances in effect, shall apply to all changes of the farming operation which will cause all or part of the area to become more urban in character. Setback and other regulations shall apply to farming operations, just as they do to residential developments. The Town Board may require any farm operation to secure a Conditional Use permit to expand or intensify said operations in the event of the following:

- A. The farm building is within two-hundred-fifty (250) 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.
- B. The farming operations are so intensive as to constitute industrial type use consisting of the compounding, processing, and packaging of products for wholesale or retail trade, and further that such operations may tend to

become a permanent industrial type operation that cannot be terminated as can a normal farming operation.

Section 3 - PERFORMANCE STANDARDS FOR COMMERCIAL OPERATIONS

A. Off-Street Parking

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 the regulations contained in Ordinance 3, Chapter 4, Section 1, and with all 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 - 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 5 - BUILDING PERMITS

A. Permit

1. For the purpose of regulating the location, size, and height of buildings on lots and the density of population in the Township of Eureka, and to provide separate districts for the purpose of carrying out the aforesaid regulations, building permits shall be required for

all buildings, whether temporary or permanent in nature. No person or persons, firm, or corporation shall construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure; erect, install, enlarge, alter, repair, remove, convert, or replace any gas, mechanical, electrical, plumbing system, or other equipment, the installation of which is regulated by the Minnesota State Building Code; or cause any such work to be done, before first making application for and obtaining all required permits.

2. 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. Every permit issued shall become invalid unless the work authorized by the permit is commenced within 180 days after its issuance, or if the work authorized by the permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The Building Official may grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.
4. The issuance of a building permit shall in no way abrogate, restrict or limit the power of the Town Board to regulate the use of the property for which the building permit is issued by appropriate future zoning or 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. 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 required building permits shall be taken out by the permittee or authorized agent before any part of said construction shall commence. In the event construction shall have been commenced before said permit has been issued, the fees shall be doubled.
2. Every permit issued shall become invalid unless all applicable fees are paid within thirty (30) days of approval by the Town Board.

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. All septic drain fields shall be placed not less than ten (10) feet from the property line of adjoining private property. Drain fields shall be not less than fifty (50) feet from any source of domestic water supply, and not less than one-hundred (100) feet from any shallow source of domestic water supply. The drain field shall be located not less than twenty (20) feet from the foundation of any building.
- D. 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.
- E. Metal septic tanks must comply with the Minnesota Pollution Control Agency Individual Sewage Treatment System Chapter 7080.

Section 8 - SWIMMING POOLS

- A. Permits

Permits are required for all swimming pools, whether above or below ground, that have the capacity to hold over 5,000 gallons of water or that are over 2 feet deep at their maximum depth. Permits 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. 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

A. The building official may issue a permit for those temporary structures and temporary uses specified below. The permit shall be limited as to time of service, but shall not be permitted for more than 180 days. The building official may grant extensions in writing for demonstrated cause.

B. The following temporary structures or uses are permitted:

1. Any one temporary building or stand exclusively for the sale of agricultural or horticultural products produced on the premises, provided that such building shall be no less than twenty (20) feet from the road right-of-way and further provided that adequate off-street parking shall be available.

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

3. A garage may be occupied as a temporary dwelling for a period of not more than six (6) months if construction of a permanent dwelling is actually under way and in active progress during occupancy of the garage. Said garage shall be provided and equipped with garage doors. In the event that any person shall reside in any such temporary garage home for a period of time exceeding that permitted by the building official, the Town Board shall proceed to have such extended use abated as a nuisance.

C. All other temporary uses or structures are prohibited in Eureka Township.

Section 11 - MOVING BUILDINGS WITHIN OR INTO TOWNSHIP

A. Permit

The moving of any building or structure within the Township of Eureka, or the relocating of any building or structure into the Township of Eureka, is prohibited unless a moving permit shall first be obtained from the 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 within or into the Township of Eureka must be inspected by a certified building inspector before a permit is granted, and before the building or structure is moved within or into the Town of Eureka.

E. Requirements

Any building or structure moved within or into the Township of Eureka must be placed on a proper foundation, and building permits must be obtained as for new construction..

F. Violation

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

Section 12 - TALL NON-AGRICULTURAL STRUCTURES

A. Wireless Telecommunication Facilities

1. Purpose

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

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

2. Intent

This section is intended to regulate wireless telecommunication towers and is not intended to regulate other types of towers such as radio and television antennae, residential satellite dishes or public safety transmitters.

3. Permitted And Conditionally Permitted Towers

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

- a. Towers located in the following locations:
 - (i) Church sites, when camouflaged as steeples or bell towers; and
 - (ii) Government, school, utility and institutional sites.

- b. Wall or roof-mounted towers.
- c. All other cell phone towers or wireless communication facilities require a conditional use permit.

4. Performance Standards

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

a. Co-Location Requirements

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

- (i) A proposal for a new tower shall not be approved unless the Town Board finds that the wireless telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower, building or structure due to one or more of the following reasons:
 - (a) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 - (b) The planned equipment would cause interference materially impacting the usability of other existing equipment at the tower or building as documented by a licensed professional engineer and the interference cannot be prevented at a reasonable cost.
 - (c) Existing or approved towers or buildings cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a licensed professional engineer.
 - (d) Other unforeseen reasons that make it infeasible to locate the planned

telecommunications equipment upon an existing or approved tower or building.

b. Construction and Maintenance of Towers

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

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

c. Tower Setbacks

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

- (i) Towers shall be set back from any property line a minimum distance equal to fifty (50) feet and shall be setback a distance equal to the height of the tower when adjacent to a right-of-way.
- (ii) A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the Town Board, to allow integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device or similar structure.
- (iii) The minimum distance to a residential structure shall be the height of the tower plus fifty (50) feet.
- (iv) The tower or associated accessory structures shall not encroach upon any public easements.

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

d. Height

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

e. Height Limitations for Towers

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

f. Tower Lighting

Towers shall not be illuminated by artificial means and shall not display high intensity strobe lights (as defined by the FCC) unless such lighting is specifically required by the Federal Aviation Administration or other Federal or State authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

g. Signs and Advertising

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

h. Accessory Utility Buildings

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

i. Abandoned or Unused Towers or Portions of Towers

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

- (i) All abandoned or unused towers and associated facilities shall be removed within twelve months of the cessation of operations at the site unless a time extension is approved by the Zoning Administrator. In the event that a tower is not removed within twelve months of the cessation of operations at a site, the tower and associated facilities may be removed by the Town Board and the costs of removal assessed against the property.
- (ii) Unused portions of towers above a manufactured connection shall be removed within six months of the time of antenna relocation. The replacement of portions of a tower previously removed shall require the issuance of a new conditional use permit.

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

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

antennae must be located within the principal building or, if located on the rooftop, must be enclosed.

k. Interference with Public Safety Telecommunications

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

l. Lights and Other Attachments

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

m. Security Fencing

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

5. Application

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

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 with or separated by adequate distance or screening from adjacent agriculturally or residentially zoned or used land so that existing property will not be depreciated in value and there will be no deterrence to development of vacant land.
3. The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties.
4. The use is reasonably related to the existing land use.
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.

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 legally authorized 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 findings of fact and recommend to the Town Board such actions or conditions relating to the request. Such findings shall be entered in and made part of the written record of the Town Board's meeting.
9. The Town Board will take final action on the request. Approval of a conditional use permit shall require passage by a minimum of three (3) members of the Town Board.
10. An amended conditional use permit application shall be administered in a manner similar to that required for a new conditional use permit. The fee shall be as set by separate action of the Town Board. Amended conditional use permits shall include requests for changes in conditions and as otherwise described in this 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 (6) months. To proceed substantially means to make visible improvement to the property. Up to two (2) extensions for not more than six (6) months each may be granted by the Town Board for good cause.
13. If the land use does not conform to the conditions of the permit, the conditional use permit may be revoked after notice to the applicant of a public hearing for the intended revocation and passage of a resolution by the Town Board to that effect.
14. All Conditional Use Permits that are granted by the Town Board shall be recorded at the office of the Dakota County Recorder by the Township Clerk at the expense of the applicant.

Section 14 - Interim Use Permits**A. Criteria for Granting Interim Use Permits**

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

1. The interim use is identified as a permitted interim use in the zoning district where the property is located.
2. The interim use will meet or exceed the performance standards set forth in the Zoning Ordinance and other applicable Township ordinances.
3. The interim use complies with the specific standards for the use identified in the ordinance allowing the interim use.
4. The date or event that will terminate the use can be identified with certainty.
5. Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.
6. The user agrees to any conditions that the Town Board deems appropriate for permission of the use.
7. The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
8. The use will be sufficiently compatible with or separated by adequate distance or screening from adjacent agriculturally or residentially zoned or used land so that existing property will not be depreciated in value and there will be no deterrence to development of vacant land.
9. The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties.
10. The use will not cause traffic hazards or congestion.

B. Conditions Of Approval

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

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

C. Procedure

1. Applications for interim use permits will not be accepted from anyone who is not an owner of land for which the application is made.
2. The person applying for an interim use permit shall fill out and submit to the Zoning Administrator an interim use application form and filing fee.
3. The Zoning Administrator shall provide landowners within 1,000 feet of the applicant's property with notification of the application for an interim use permit via first class mail.
4. The Zoning Administrator shall refer the application to the Planning Commission for review.

5. The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be as provided by Minnesota Statute 462.3597.
 6. The petitioner or a legally authorized representative shall appear before the Planning Commission in order to present evidence concerning the proposed interim use.
 7. If the Planning Commission recommends granting the interim use permit, it may recommend conditions it considers necessary to protect the public health, safety and welfare.
 8. The Planning Commission shall forward its recommendation to either deny or approve the interim use permit to the Town Board. The Planning Commission shall make findings of fact and recommend to the Town Board such actions or conditions relating to the request. Such findings shall be entered in and made part of the written record of the Town Board's meeting.
 9. The Town Board will take final action on the request. Approval of an interim use permit shall require passage by a minimum of three (3) members of the Town Board.
 10. No application for an interim use permit shall be resubmitted for a period of six (6) months from the date of said order of denial.
 11. Granted interim use permits shall become void if applicant does not proceed substantially on the work within six (6) months. To proceed substantially means to make visible improvement to the property. Up to two (2) extensions for not more than six (6) months each may be granted by the Town Board for good cause.
 12. If the land use does not conform to the conditions of the permit, the interim use permit may be revoked after notice to the applicant of a public hearing for the intended revocation and passage of a resolution by the Town Board to that effect.
 13. All interim use permits that are granted by the Town Board must be recorded at the office of the Dakota County Recorder at the expense of the applicant.
- D. Termination. An interim use permit shall terminate on the occurrence of any of the following events, whichever first occurs:

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

Section 15 - 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.

“Undue 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 and escrow.
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 Adjustments and 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 legally authorized 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 ensure compliance and to protect adjacent properties and the public interest. The Board of Adjustments and Appeals may place additional conditions upon the issuance of a variance.
7. The Planning Commission shall make a finding of facts and recommend to the Board of Adjustments and Appeals 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 Adjustments and Appeals' meeting.
8. Upon receiving the report and recommendation of the Planning Commission, the Town Board, acting as the Board of Adjustments and Appeals, 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 Adjustments and Appeals 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 Board of Adjustments and Appeals' 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 Board of Adjustments and Appeals. The Zoning Administrator or Town Clerk shall notify the applicant of the Board of Adjustments and Appeals' action.
 11. Decisions of the Planning Commission shall be advisory to the Board of Adjustments and Appeals. The decisions of the Board of Adjustments and Appeals 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. Up to two (2) extensions of not more than six (6) months each may be granted by the Board of Adjustments and Appeals for good cause.
 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 Board of Adjustments and Appeals shall be recorded at the office of the Dakota County Recorder.

Section 16 – 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 mobile home 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 traverse town roads with their machinery, equipment or other implements at any time.

Section 2 – FEEDLOTS

- A. Intent and Purpose

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

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

- B. Minimum Setbacks

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

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

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.

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 Operator's License 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. 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. Animal control officers
2. Licensed veterinary hospitals or clinics
3. Any wildlife rehabilitator licensed by the State who temporarily keeps exotic animals within the Township when the purpose is to return the animals to the wild.
4. Any person who owned, possessed, kept or harbored exotic animal(s) on or before the effective date of this Ordinance, provided that all federal, state, and local licensing and/or approval requirements are met. Any person who falls within this paragraph shall be permitted to hold, keep, harbor or maintain the number of exotic animals that person was legally permitted to hold, keep,

harbor or maintain as of the date of adoption of this 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, ensure, maintain and regain the natural and scenic beauty and attractiveness of the roadside throughout Dakota County. By the construction of public roads, the public has created views to which the public retains a right-of-view, and it is the intent of these standards to prevent the taking of that right. Signs are recognized as accessory uses and are permitted in all districts, subject to the regulations of this 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

A. Purpose.

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.

B. Setbacks.

Signs shall be set back a minimum of fifteen (15) feet from the road right-of-way.

- C. Attachment to ground.

All signs shall be securely attached to the ground.

Section 4 - PUBLIC RIGHT-OF-WAY

Only official identification or 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 larger than fifty (50) square feet in size shall require a Conditional Use Permit.
- C. Total square footage of all advertising signs on a single lot shall not exceed two hundred (200) square feet.

Section 6 - OFF SITE ADVERTISING SIGNS

Off-site advertising signs are permitted in all districts subject to the conditions 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 a public, charitable, or religious institution occupying the premises.
- C. An advertising sign in connection with a lawfully maintained non-conforming use.
- D. Political signs.

Section 11 - LIGHTING

Signs may be illuminated by fixed, 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.
- B. 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.
- C. 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 ensure 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 use 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 ensure good drainage of surface and storm waters, and to ensure 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 neat and presentable appearance.

- F. Any additional special requirements as may be required by the Town Board to ensure 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.