

CASTLE ROCK TOWNSHIP



ORDINANCE No. 2013-01 ZONING ORDINANCE

Public Hearing Date: December 18, 2012

Adoption Date: January 08, 2013

Effective Date: January 31, 2013

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ORDINANCE No. 2013-01

CASTLE ROCK TOWNSHIP ZONING ORDINANCE

SECTION I: TITLE

This Ordinance shall be known, cited, and referred to as the Castle Rock Township Zoning Ordinance, herein referred to as this Ordinance.

SECTION II: INTENT AND PURPOSE

It is the intent of this Ordinance to identify and classify all lands within the boundaries of Castle Rock Township, Minnesota, according to their most logical and appropriate long-term use, as established in the Castle Rock Township Comprehensive Plan.

It is the purpose of this Ordinance to:

- A. protect the public health, safety, and general welfare.
- B. protect and preserve lands identified for long-term agricultural use.
- C. promote well-managed and staged development of residential, commercial, industrial, recreational, and public areas.
- D. conserve and manage the use of natural resources, wetlands, and floodplain areas.
- E. provide for the compatibility of different land uses and the most appropriate use of land throughout the Township.

SECTION III: RULES OF INTERPRETATION

3.01 Rules of Construction

The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction, except where specifically indicated otherwise:

- A. The singular number includes the plural and the plural number includes the singular.
- B. The present tense includes the past and future tenses, and the future the present.
- C. The word "shall" is mandatory and the word "may" is permissive.
- D. Pronoun references to the masculine gender includes the feminine gender and the female gender includes the masculine gender.
- E. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be construed as set forth in such definition. If no set definition is given in this Ordinance, the Board of Adjustment and 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, the more restrictive provision shall apply.

3.02 Severability

It is hereby declared to be the intention that every provisions of this Ordinance are severable from every other provision in accordance with the following:

- A. If any court of competent jurisdiction shall adjudge any provisions of this Ordinance to be invalid, such judgment shall not affect or invalidate any other provision of this Ordinance not specifically included in said judgment.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect other property, buildings, or structures.

SECTION IV: DEFINITIONS

The following words and terms, whenever they occur in this Ordinance, are defined as follows:

Accessory Use or Structure A use, or structure, or portion of a structure subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

Agricultural Building See Farm Building

Agricultural Use The use of land for the production of livestock, dairy animals, dairy productions, poultry or poultry products, fur-bearing animals, horticultural or nursery stock including sod, fruit, vegetables, forage and cash grains, forestry, or bees and apiary productions. Wetlands, pasture, and woodlands accompanying land in agricultural use shall also be considered to be in agricultural use.

Agriculture, Animal The use of land for Animal Feedlots or Animal Waste Storage Facilities.

Agriculture, Commercial The use of land for the growing and/or protection of field crops, livestock, and livestock products, including but not limited to the following:

- a. field crops; including but not limited to: barley, soybeans, corn, hay, oats, potatoes, rye, sorghum, sunflowers, carrots and radishes.
- b. livestock, including but not limited to: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including dogs, ponies, deer, rabbits, and mink.
- c. livestock products; including but not limited to: milk, butter, cheese, eggs, meat and furs.

Agriculture, Crop The use of land for the production of row crops, field crops, tree crops, timber, apiary products, and fur-bearing animals.

Animal Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom.

Animal, Domestic Any animal commonly accepted as a domesticated household pet. Unless otherwise defined, such animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non- venomous, and non-constricting reptiles or amphibians, and other similar animals.

Animal, Farm Any animal commonly associated with farms for the production of food or products or with performing work in an agricultural setting. Such animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, llamas,

alpacas, ostriches, emus, burros, donkeys, and other animals associated with farms, ranches, or stables.

Animal Feedlot A lot, building, or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals 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. Open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered animal feedlots, but pastures shall not be considered animal feedlots.

Animal, Non-Domestic Any animal commonly considered to be naturally wild and not naturally trained or domesticated, or which is commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:

- a. Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars.
- b. Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.
- c. Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.
- d. Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.
- e. Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles, and alligators.
- f. Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subpart, including but not limited to bears, deer, monkeys and game fish.

Animal Owner See *Owner, Animal*.

Animal Unit A unit of measure used to compare differences in the production of animal manures that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer. For purposes of this Ordinance, the following equivalents shall apply:

| Animal Type | No. of Animal Units |
|--|---------------------|
| <i>Dairy</i> | |
| One calf (less than 500 lbs.) | 0.2 |
| One youngstock (500-1000 lbs.) | 0.7 |
| One heifer | 1.0 |
| One cow | 1.4 |
| <i>Beef</i> | |
| One calf (less than 500 lbs.) | 0.2 |
| One cow/calf unit | 1.2 |
| One cow, slaughter steer, or heifer | 1.0 |
| <i>Swine</i> | |
| One swine (less than 55 lbs.) | 0.0 |
| | 5 |
| One swine (55 lbs. or more) | 0.4 |
| One sow with piglets less than 14 days old | 0.4 |
| <i>Turkeys</i> | |
| One pullet | 0.005 |
| One hen or tom | 0.018 |
| <i>Chickens</i> | |
| One pullet | 0.002 |
| One layer or broiler | 0.0 |
| | 1 |
| <i>Horses</i> | |
| One horse | 1.0 |
| <u>Mini Horse</u> | <u>.25</u> |
| <i>Llamas</i> | <u>.25</u> |
| <i>Alpacas</i> | <u>.14</u> |
| <i>Donkeys/Mules/Burros/Other Similar Equine</i> | <u>.25</u> |
| <i>Sheep/Goat</i> | |
| <u>One Sheep/lamb or goat</u> | <u>0.1</u> |

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For animals not listed above, the number of animal units shall be defined as the average weight of the animal divided by 1,000 pounds.

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| Animal Waste Storage Facility | A structure where lot runoff, manure effluent or other diluted animal waste is stored or treated, including earthen manure storage basins, earthen lagoons, concrete, or glass-lined storage. |
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| <u>Applicant</u> | <u>The owner of the dominant quarter-quarter section, as identified in Section 6.11; the owner has a right to relocate the buildable residential use from a rear quarter section of the property to a front quarter section of the property, as long as road frontage exists.</u> |
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| Arterial Road | A road designated as such in the Comprehensive Plan, as identified on the map entitled "Transportation Characteristics." |
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| Attached Dwelling | See <i>Dwelling, Attached</i> . |
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| Basement | A portion of a building located partly underground but having half or more of its floor-to-ceiling height below the average grade of the adjoining ground. |
| Berm | A shelf or raised flat area that breaks the continuity of the slope of the land. |
| Boarding House (Rooming or Lodging House) | A building other than a hotel or motel where, for compensation and by pre-arrangement for definite periods, meals or lodging are provided for three or more persons, but not to exceed six persons all of whom do not constitute a family unit. |
| 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 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. |
| 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 Permit | Permit issued by the Castle Rock Township in accordance with the Minnesota State Building Code. |
| <u>Building Rights</u> | <u>The right to construct a residential dwelling unit in a quarter-quarter section within the Township as permitted in this zoning ordinance and any other ordinance of the Township.</u> |
| <u>Building Rights Transfer Fee</u> | <u>The fee required to be paid with a building rights transfer permit application.</u> |
| <u>Building Rights Transfer Permit</u> | <u>The permit required to transfer building rights:</u> |
| Carport | An automobile shelter having one or more sides open. |
| Cartway | A means of access to a tract or tracts of land that is not maintained by the Township, as authorized by Minn. Stat. §§ 164.08-164.10 and 164.15. |
| <u>Cemetery</u> | <u>Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes.</u> |
| Certificate of | A written approval by an authorized official of Castle Rock Township |

Commented [FN1]: Removed structure language

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| Occupancy | required prior to occupancy of any building issued a permit in the Township |
| Club and Lodge | A public or private hall or building used primarily as a meeting place by one or more public or private organizations. |
| Collector Road | A road designated as such in the Comprehensive Plan, as identified on the map entitled "Transportation Characteristics." |
| Commercial | Property or structure used primarily for the operation of a trade, occupation or business, which may include industrial and retail, for the purpose of generating income or profit. |
| Commercial Agriculture | See <i>Agriculture, Commercial</i> . |
| Commercial Recreation | See <i>Recreation, Commercial</i> . |
| Community Water and Sewer Systems | Utilities systems serving a group of buildings, lots, or any area of the community, with the design and construction of such utility systems as approved by Castle Rock Township and the State of Minnesota. |
| Comprehensive Plan | Comprehensive Plan of Castle Rock Township, approved by the Town Plan Board. |
| Corner Lot | See <i>Lot, Corner</i> |
| 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. |
| <u>Data Center</u> | <u>A facility used for the storage, processing, management, and/or transmission of digital data. The facility can include computer and network equipment, and other components related to digital data operations. The facility may also include power generators, water cooling and storage containers, utility substations, and other associated infrastructure to support operations at the data center. Various types of data centers may be identified as enterprise, hyperscale, cloud, colocation, edge data centers, and digital technology parks.</u> |
| Detached Dwelling | See <i>Dwelling, Detached</i> . |
| Dog | Both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind |
| Domestic Animal | See <i>Animal, Domestic</i> . |
| <u>Dominant Quarter</u> | <u>The quarter-quarter section or parcel of land to which the building rights</u> |

Quarter Section or will be transferred and the section or parcel is deemed buildable.

Dominant Parcel/
Property

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| 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, Drainage System gullies, 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 manmade |
| Dwelling, Attached | A dwelling unit which is joined to another dwelling. |
| Dwelling, Detached | A dwelling unit which is entirely surrounded by open space on the same lot. |
| Dwelling Unit | A building, or portion thereof, intended to be occupied for residential purposes by a single family and which has complete independent living facilities for living, sleeping, eating, cooking and sanitation. Dwelling unit does not include hotels, motels, boarding or rooming houses, or tourist homes. |
| Earth-Sheltered Home | A single-family detached dwelling unit constructed so that 50 percent or more of the exterior surface is covered or in contact with earth. Exterior surface includes all walls and roof, but excludes garages and other accessory buildings. Earth covering on walls is measured from the floor of the structure's lowest level. Earth covering on the roof must be at least 12 inches deep to be included in calculations of earth covering. Partially completed buildings shall not be considered earth sheltered. |
| Exterior Storage | The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building. |
| 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 living together, or a group of not more than five persons who need not be related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit. |
| Farm | <u>Real property used for commercial agriculture comprising 40 contiguous or more acres and which may comprise additional acreage which may or may not be contiguous to the principal 40 acres, all of which is owned and operated by a single family, family corporation, individual or corporate enterprise. The land is principally used for agricultural activities such as the</u> |

production of cash crops, livestock, or poultry farming. Such farms may include agricultural dwellings and accessory buildings and structures necessary to the operations of the farm.

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| Farm Animal | See <i>Animal, Farm</i> . |
| Farm Building | <p><u>The structure on agricultural land used to house farm implements, livestock, or agricultural produce or products used by the owner, lessee, or sub-lessee of the building and members of their immediate families, employees, or persons engaged in the pick-up or delivery of agricultural produce or products. An Agricultural Permit is required for farm buildings.</u></p> <p><u>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.</u></p> |
| Farm Dwelling Unit | A dwelling unit located on a farm, the occupant(s) of which owns or is employed by the farm. |
| <u>Farm, Hobby</u> | <u>A small scale agricultural operation comprising between 10–40 tillable acres that is used for recreation or pleasure rather than as a primary source of income. (An additional 2.5 acres is required if the property contains a buildable site or existing residential building).</u> |
| Feedlot | Land or building or combination of land and buildings intended for the confined feeding, breeding, raising, or holding of animals 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 this definition, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots; pastures shall not be considered animal feedlots. |
| Fence | An artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas. |
| Floor Area | The sum of the gross horizontal areas of the several floors of a 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 activity 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. |
| Front Lot Line | See <i>Lot Line, Front</i> . |
| Front Yard | See <i>Yard, Front</i> . |
| Garage, Private | An accessory building or accessory portion of the principal building which is |

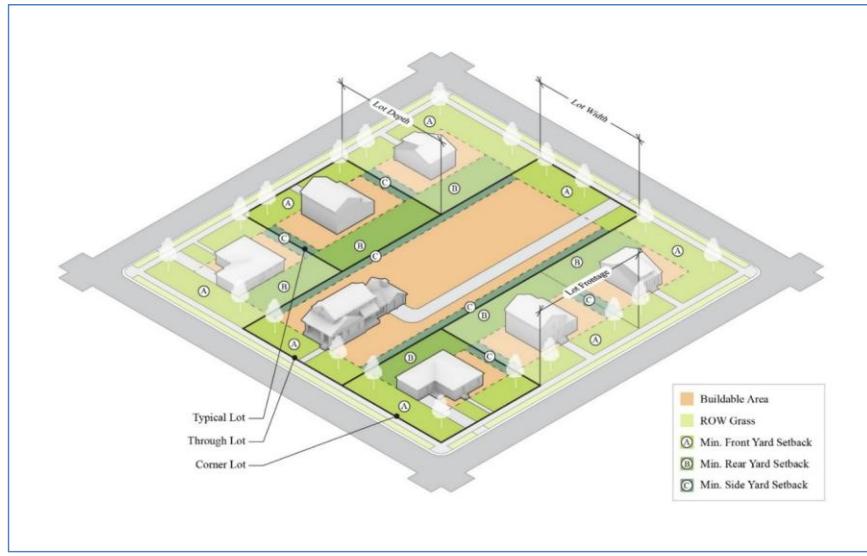
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| | intended for and used to store the private passenger vehicles of the family or families resident upon the premises. |
| Greenhouse | A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants for subsequent sale or other agricultural uses. |
| Historic Site | Structure or body of land or water of historic, archeological, paleontological, or architectural content or value which has been designated as an historic site in the Federal Register of Historical Landmarks or by the Minnesota Historical Society or by resolution of a local governmental unit. |
| Home Occupation | Any gainful occupation or profession engaged in by occupants of a dwelling unit, at or from the dwelling, when carried on within a dwelling unit or in an accessory building, provided that no signs are used to advertise the home occupation neither on the premises nor off the premises <u>without prior approval by the Township</u> , limited stock in trade is stored on the premises, over-the-counter retail sales are not involved, and persons working in the home occupation are limited exclusively to persons residing in the dwelling. |
| Horticulture | The use of land for production or sale of fruits, including apples, grapes and berries, vegetables, flowers, nursery stock, including ornamental shrubs and trees and cultured sod. |
| Industrial or Industry | The use of or activity on land or within a building thereon involving the commercial operation of warehousing, manufacturing, compounding, processing, packaging treatment or assembly of goods, products and materials. |
| Interim Use | See <i>Use, Interim</i> . |
| Irrigation System | Any structure of 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 | Any scrap, waste, reclaimable material or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed, or other use or disposition. |
| Junk Yard | Any area, lot, land parcel, building or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage, or disposal of junk. |
| Junked Vehicle | Any motor vehicle which: a) is not in operable condition for a period of 30 days or more; b) is partially dismantled; c) is used for sale or parts as a source of repair or replacement parts for other vehicles; d) is kept for scrapping, dismantling, or salvage of any kind, or e) is, for a period of 30 days or more, not properly licensed for operation in the State of Minnesota. |

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| Kennel | A commercial establishment in which dogs or domestic animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation. A kennel shall also mean any residence or business in which six (6) or more domestic animals over the age of six (6) months are kept at any time. |
| Local Road | A road not designated as a “Collector” or “Arterial” in the Comprehensive Plan, as identified on the map entitled “Transportation Characteristics.” |
| 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 (1) unit of a plat heretofore duly approved and filed, or one (1) unit of an Auditor Subdivision or a Registered Land Survey, or a parcel of land not so platted, subdivided or registered but for which a Deed of Contract for Deed, Auditor’s Subdivision or Registered Land Survey has been recorded in the office of the Register of Deeds or Registrar of Titles for Dakota County, Minnesota, prior to August 31, 1978. |
| 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 intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred thirty-five 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 Line, Front | The 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 designated local official. |
| 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 rear 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 or parcel of land for which a deed has been recorded in the office of the Dakota County Recorder upon or prior to the effective date of this Ordinance 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 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 a lot depth.



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Manufactured Home A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is at least 320 square feet, and which is built on a permanent chassis, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

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Mining or Mineral Extraction The extraction of sand, gravel, rock, soil or other material from the land in the amount of greater than 1000 cubic yards.

Multiple Family Dwelling Two or more dwelling units in one structure.

Nonconforming Use See *Use, Nonconforming*.

Non-Domestic Animal See *Animal, Non-Domestic*.

Nutrient Management Plan A plan that provides procedures and application rates, and identifies crop nutrient requirements that are based upon projected crop yields, soil fertility results, and manure nutrient availability. All guidelines are based on

University of Minnesota guidelines for best management practices.

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| Non-Farm Dwelling Unit | A dwelling unit, the occupant of which is not employed by or the owner of the farm on which the dwelling unit is located. |
| Open Sales Lot | Any land used or occupied for the purpose of buying and selling any (Exterior Storage) goods, materials, or merchandise and for the storing of same under the open sky prior to sale |
| Owner, Animal | Any person or persons, firm, association, or corporation owning, keeping, or harboring an animal. |
| 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. |
| Permitted Use | See <i>Use, Permitted</i> . |
| Planning | The Planning Commission of Castle Rock Township |
| Photovoltaic (PV) Device System | A system of components that generates electricity from incident sunlight by means of the photovoltaic effect, whether or not the device is able to store the energy produced for later use. |
| Photovoltaic (PV) Effect | The phenomenon that occurs when photons, the "particles" in a beam of light, knock electrons loose from the atoms they strike. When this property of light is combined with the properties of semiconductors, electrons flow in one direction across a junction, setting up a voltage. With the addition of circuitry, current will flow and electric power will be available. |
| Photovoltaic (PV) (PV Panel) | The essentially planar assembly of solar cells and ancillary module parts, such as interconnections, terminals, (and protective devices such as diodes) intended to generate direct current or alternating current in direct and diffuse sunlight. |
| Photovoltaic (PV) System | A complete set of components for converting sunlight into electricity by the photovoltaic process, including the array and balance of system components. |
| Portable Building | A building or structure which is not permanently secured to the ground by a foundation, anchors, tie-downs or other similar method for securing a structure on a permanent basis, and does not exceed one hundred twenty (120) square feet in area. |
| 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 Garage | See <i>Garage, Private</i> . |

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| Public Recreation | See <i>Recreation, Public</i> . |
| Public Utility Building | A structure or facility designed for the operation of public utilities including <u>but not limited to</u> power stations, substations, pumping stations and reservoirs, communications equipment buildings, gas regulation stations, transmission lines, <u>generators, and any additional equipment associated with the utility buildings</u> . |
| Quarter-Quarter Section | An approximately 40-acre parcel of land constituting the northeast, northwest, southwest, or southeast quarter of a quarter section in the United States Government System of land survey. |
| Rear Lot Line | See <i>Lot Line, Rear</i> . |
| Rear Yard | See <i>Yard, Rear</i> . |
| Outdoor Recreation Area | A parcel of land, which may include water bodies and incidental buildings, maintained for active or passive recreation, including but not limited to: parks, playground, golf courses, hunting preserves, polo grounds, nature trails, bike trails, bridle paths, beaches, campsites, ski and snowmobile trails, and canoe routes; but not including stadiums, arenas, bowling alleys, swimming pools (except privately-owned pools not open to the public), and other recreational activities for which a structure is required to house. |
| Recreation, Commercial | A privately-owned business offering recreational facilities, services, or equipment for a fee, including but not limited to: private golf courses, fitness clubs, amusement parks, indoor playgrounds, gymnasium, fields or courts, bike trails, theaters, bowling alleys, boat launches, etc. Also includes the sale and service of recreational equipment such as snowmobiles, boats and campers. |
| Recreation, Public | A public parcel of land (which may include water bodies) and buildings incidental thereto maintained for indoor or outdoor recreation, including but not limited to parks, golf courses, preserves, ski and snowmobile trails, bike trails, ball parks, swimming pools (except privately owned residential pools), gymnasiums, skating arenas, etc. |
| Recreational Vehicle | A vehicular-type portable structure without permanent foundation that can be towed, hauled or driven and primarily designed as a temporary living accommodation for recreational, camping and travel use, including but not propelled motor homes. <u>Recreational Vehicles shall be used no more than 90 consecutive days and maximum 180 days in a 12-month period.</u> |
| Registered Animal Feedlot | An active or inactive animal feedlot with a specified designated maximum number of animal units that is registered with the Town |

Board and recorded with the County Feedlot Officer, according to the Animal Feedlot and Manure Handling sections of this Ordinance.

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| Retail | Property or structures used for the display and sale of goods and services to the general public (including eating and drinking establishments). |
| Road | A public thoroughfare supporting access by pedestrian and vehicles to abutting properties, including without limitation streets, highways, freeways, parkways, thoroughfares, roads, avenues, boulevards, lanes, or places, however described; however not including privately -owned driveways and access routes. |
| Run or Running at Large | The condition of an animal off the premises of the owner and not under the custody and control of the owner or other person in charge of the animal, either by leash, cord, chain, <u>verbal command</u> , or otherwise restrained or confined. |
| School | A public or private elementary, including kindergarten, secondary, and post-secondary, including trade and vocational educational institution in which classroom instruction is provided- on the property. School does not include any commercial operation in which instruction may be provided, but is not the primary purpose or function of the operation. |
| Side Lot Line | See <i>Lot Line, Side</i> . |
| Side Yard | See <i>Yard, Side</i> . |
| Single Family Dwelling | A freestanding (detached) permanent structure designed for habitation by human beings, designed for and occupied by one family only. |
| <u>Servant Quarter -Quarter Section or Servant Parcel/ Property</u> | <u>The quarter-quarter section or parcel of land from which the building rights will be transferred from and the quarter-quarter section is no longer deemed</u> buildable. |
| Solar Energy | Electromagnetic energy transmitted from the sun (solar radiation). |
| Solar Electric System | A set of devices including, but not limited to, photovoltaic devices whose primary purpose is to collect, store, and/or distribute solar energy. |
| Solar Electric System, Retail | A solar electric system established for the primary purpose of meeting all or part of the electric energy needs of the host building, whether residential, commercial, industrial, or institutional. |
| Solar Electric | A solar electric system established for the primary purpose of |

System, Wholesale generating and/or storing electricity and selling it directly to a third party (e.g., electric utility company).

Solar Panel See *Photovoltaic (PV) module*.

Spill Response Plan A Plan that establishes procedures and actions required to be carried out in the event of a spill or release of hazardous materials, including notification of the Minnesota Duty Officer and Dakota County Feedlot Officer.

Story That portion of a building included between the surface of any floor and the surface of the floor next above. A basement shall be counted as a story.

Structural Alteration Any change, other than incidental repairs, which would prolong the life of the supporting members of a building, 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.

Substandard Lot See *Lot, Substandard*.

Sub-Station, Solar Utility facility that provides the interface between transmission lines and distribution networks while regulating voltage and electrical loads.

Switchyards, Solar Utility facility that serves as a critical electrical power router, connecting generators, transformers, and transmission lines without altering voltage levels.

Through Lot See *Lot, Through*.

Tower Any ground or roof mounted pole, spire, structure, or combination thereof taller than fifty (50) feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

Use, Conditional A use of or activity on a parcel of land that because of its unique characteristics is not a permitted use, but may be allowed if it meets the standards and criteria for the use or activity as set forth herein and may be subject to certain additional conditions to protect the public health safety and welfare.

Use, Interim A temporary use of property until a particular date or occurrence of an event or until zoning regulations no longer permit it.

Commented [LD2]: Locally not many codes with definitions on Substation so I combined Cottage Grove definition and then two others found on websites linked below =

Cottage Grove Zoning Code defines Substation as:
SUBSTATION: Any utility structure other than lines, pipelines, holes or towers.

[Understanding Grid Stations, Substations, and Switchyards in Power Systems](#)
&
[What is a solar substation and how to customize yours with RatedPower software — RatedPower](#)

Commented [LD3]: Locally also not many codes with Switchyard definition so I combined definitions I found on websites linked below:

[Understanding Grid Stations, Substations, and Switchyards in Power Systems](#)
&
[NATIONAL ELECTRICAL CODE NEC SOLAR PROVISIONS - 2018 INTERNATIONAL SOLAR ENERGY PROVISIONS \(ISEP\)](#)

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| Use, Nonconforming | A use of land, building or structures lawfully existing at the time of adoption of this Ordinance which does not comply with all the regulations of this Ordinance or any use of land, building or structure lawfully existing prior to the adoption of an amendment which would not comply with all of the regulations. |
| Use, Permitted | A use which may be lawfully-established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards of such district. |
| <u>Utility, Large</u> | <u>Service structures or uses broader in scale and impact, designed to provide essential services on a wide-variety level. (e.g., Renewable energy generation facilities, water treatment plants, major pumping stations, etc.)</u> |
| <u>Utility, Small</u> | <u>Service structures or uses that are limited in scale and impact, designed to provide localized essential services. (e.g., Private water, sewage, and distribution facilities, small-scale electrical equipment, etc.)</u> |
| Warehouse | A building used principally for the indoor storage of goods, products and materials in connection with a commercial activity and including the operation of a packing and crating process. |
| Wholesale | A commercial activity in which goods, products equipment or materials are sold by bulk to another business that in turn sells through retail outlets. |
| 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. |

Commented [LD4]: Definitions from Northern Township, MN Zoning Ordinance:

Public Utility Building, Minor: Essential service structures or uses, including, but not limited to, buildings or uses such as telephone exchange stations, sewer lift stations, power poles, lines, and transformers, except as a power substation or transmission line, public and private water, sewer, and drainage distribution facilities, etc.

Public Utility Building, Major: Essential service structures or uses, including, but not limited to, buildings or uses such as booster or pressure regulating stations, wells and pumping stations, wastewater treatment plants, elevated tanks & towers, electrical power substations, and major electric utility transmission lines, etc.

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SECTION V: GENERAL PROVISIONS

5.01 Application of This Ordinance

- A. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and welfare.
- B. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.
- C. Except as in this Ordinance specifically provided, 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 this Ordinance.

5.02 Substandard Lot Provisions

A substandard lot or parcel of land for which a deed has been recorded in the office of the Dakota County Recorder's Office upon or prior to the effective date of this Ordinance shall be deemed a buildable lot provided it:

- A. has frontage on a public right-of-way;
- B. was under separate ownership from abutting lands upon or prior to the effective date of this Ordinance;
- C. its area and dimensional measurements are within sixty percent of the requirements of this Ordinance;
- D. its development 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.

5.03 Nonconforming Uses and Structures

Any structure or use existing upon the effective date of the adoption of this Ordinance and which does not conform to the provisions of the Ordinance shall be a legal nonconforming structure or use and may be continued subject to the following conditions:

- A. No nonconforming use shall be expanded or intensified except in conformity with the provisions of this Ordinance.
- B. Except as provided herein, no nonconforming structure shall be replaced, converted, enlarged, altered or changed in any manner unless the structure meets all requirements of this Ordinance. Any addition to a nonconforming structure shall meet all requirements of this Ordinance.
- C. If a nonconforming use is discontinued or a nonconforming structure is not used for a period of one year, or is deemed uninhabitable, further use of the structures or property shall conform to this Ordinance.
- D. If a nonconforming use is replaced by another use, the new use shall conform to this Ordinance.
- E. Whenever a lawful non-conforming structure has been damaged by fire, flood, explosion, earthquake, tornado, war, riot, or act of God, or other damage making the structure uninhabitable, it may be reconstructed and used as before if a building permit for reconstruction is applied for within 180 days of the property damage occurring. If a building permit is not applied for within 180 days of property damage and the damage to the building or structure is 50 percent or more of its fair market value as shown on the assessor's records at the time of damage, the use thereof shall be in accordance with the provisions of this Ordinance.
- F. Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the nonconforming use.

5.04 State Building Code

- A. Minnesota State Building Code Adopted.
 - 1. The Minnesota State Building Code -(2008), and any amendments thereto established and adopted from time to time by the Minnesota Commissioner of Labor & Industry, including the following chapters of Minnesota Rules, is Industry is hereby adopted by reference —as though set forth verbatim herein:
 - a. 1300 Minnesota Building Code Administration
 - b. 1301 Building Official Certification
 - c. 1302 State Building Code Construction Approvals
 - d. 1303 Special Provisions;
 - e. 1305 Adoption of the International Building Code
 - f. 1307 Elevators and Related Devices
 - g. 1309 Adoption of the International Residential Code
 - h. 1311 Adoption of Guidelines for Rehabilitation of Existing Buildings

Commented [FN5]: Made more general and does not address years or specific sections.

- i. [1315 Adoption of the 2008 National Electrical Code](#)
- j. [1322 Residential Energy Code](#)
- k. [1323 commercial Energy Code](#)
- l. [1325 Solar Energy Systems](#)
- m. [1335 Floodproofing Regulations](#)
- n. [1341 Minnesota Accessibility Code](#)
- o. [1346 Minnesota Mechanical and Fuel Gas Code](#)
- p. [1350 Manufactured Homes](#)
- q. [1360 Prefabricated Structures](#)
- r. [1361 Industrial/Modular Buildings](#)
- s. [1370 Storm Shelters \(Manufactured Home Parks\)](#)
- t. [4715 Minnesota Plumbing Code](#)

2. The current edition of Minnesota State Fire Code, and any amendments thereto established and adopted from time to time by the Minnesota Commissioner of Public Safety is hereby adopted by reference ~~as though set forth verbatim herein~~. One copy of said codes shall be marked CASTLE ROCK TOWNSHIP—OFFICIAL COPY and kept on file at the Town Hall and open to inspection and use by the public.

B. Application, Administration, and Enforcement.

The application, administration, and enforcement of the state building code shall be in accordance with Minnesota Statutes and Minnesota Rule governing the same.

C. Permits and Fees.

The issuance of permits and collection of fees shall be as authorized in Minnesota Statutes.

Permit fees shall be assessed for work governed by the state building code in accordance with resolutions adopted by the Town Board. In addition, a surcharge fee shall be collected on all permits issued for work governed by the state building code in accordance with Minnesota Statutes,

D. Completion of Exterior Work.

1. Exterior work authorized by a building permit issued in accordance with the Minnesota State Building Code must be completed within the specified days set forth below from the date of issuance of the building permit or within the timeframe set by the city's chief building official at the time the permit is issued, whichever is greater. Exterior work includes work on all exterior parts of a structure or building, including but not limited to: roofs, doors, windows, siding, and stairs,

and work on exterior structures, including but not limited to: retaining wall, accessory building (sheds, detached garages), deck, and fence.

Exterior work authorized by a building permit issued in accordance with the Minnesota State Building Code must be completed within the specified days from the date of issuance of the building permit as follows:

- a. Buildings or structures on residential property including multi-family residential property with up to four units per building:
 - Roofs, siding, replacement doors and windows: 180 days.
 - Accessory structures: 180 days.
 - New construction: 365 days.
 - Additions to primary home: 180 days.
 - Retaining walls: 180 days.
- b. Buildings or structures on multi-family residential property with more than four units per building, commercial property and industrial property:
 - Building exterior work: As determined by building official.
 - Exterior structures other than primary building: 180 days.

2. Upon a showing by the permit holder or property owner that there has been an unavoidable delay in completion of the exterior work, the city's chief building official, in the official's reasonable discretion, may grant one extension for the completion of the exterior work for a period not to exceed 180 days.
3. Failure to complete all exterior work authorized by a building permit within the specified timeframe, including any extension granted, is a violation of this section.
4. Notwithstanding the completion deadlines, a permit shall expire 180 days from date of issuance if there is no substantial work completed under the permit as provided in the Minnesota State Building Code. If no work has been completed under a building permit as of its expiration date, then the completion deadline for said work under a new permit shall be as set forth above.
5. This section shall apply to any exterior work for which a building permit was issued on or after the effective date of this Ordinance. Any exterior work for which a building permit was issued prior to the effective date of this Ordinance shall be completed by December 31, 2013, unless another time was set by the Town's building official at or after the time of the issuance of the permit. If exterior work has

been completed or in progress without the issuance of a building permit, the completion timeframe dates set forth herein do not apply and the Town's building official shall have the sole authority to determine a completion and code compliance date.

E. Violations and Penalties.

A violation of the state building code is a misdemeanor.

5.05 Site Plan Review Required

For all zoning actions or permit applications, other than single family residential alterations, new construction building permits, and single family residential as approved with a major subdivision building permits, a site plan review is required. A change in existing uses or an intensification of existing uses shall require a site plan review.

A. Submittal Requirements.

1. Boundary survey of parcel including identification of all monuments.
2. Scaled location of all buildings, structures, driveways, sidewalks, trails, parking stalls, curbing, wells, septic systems, and site lighting.
3. Scaled identification of all setback dimensions from property lines.
4. Scaled locations of all existing and proposed utilities and easements.
5. Scaled depictions of floor plans for each story.
6. Scaled depictions of each building elevation and descriptions of exterior building materials and color schemes.
7. Scaled site grading plans, including erosion and sedimentation control mechanisms and procedures.
8. Scaled delineations of any shoreland, floodplain or wetland areas on the site.
9. Identification of any floodplain or wetland encroachments and detailed mitigation plans.
10. Detailed landscape plans, illustrating size, types and locations of all materials, a description of site seeding or sodding, a description of the timetable for site landscaping and the identification of any irrigation systems.

11. Detailed descriptions of any site fencing, including type, location and height.

12. Sign plan with diagrams of all signs with dimensions and proposed height if freestanding, illumination system, and mounting systems.

13. All plans shall be dated and bear the preparer(s) name(s), including professional registrations or certifications when appropriate or required.

B. Review Requirements.

1. Applicants shall submit two (2) sets of site plans with a required application form to the Township Clerk for distribution. Site plans will be evaluated for consistency with documentation requirements. Upon acceptance of the application, site plans will be distributed to the appropriate Township entity for review and recommendation. Application fees and reimbursement of the Township's out-of-pocket expenses shall be in accordance with adopted requirements.
2. Action to approve, modify or deny site plan applications will be based upon consistency of the application with the Township's Comprehensive Plan, this Ordinance, other policies and official controls and the compatibility of the proposed action with existing area land uses, existing area investments and neighborhood character, capacity of public streets and future planned land uses.
3. The Township shall approve or deny the application within sixty (60) days of receipt of a completed application or will notify the applicant in writing prior to the end of the sixty-day period of the reason that action cannot be completed within the sixty-day period and that action will be completed within 120 days of the date of receipt of the completed application. The applicant may also waive the sixty-day review period by notifying the Township in writing.

C. Exceptions.

The Township may waive certain submittal requirements for residential variance applications, when it is determined that submittal requirements are not applicable or are not necessary to complete a review of the proposed action. The Township may also waive certain submittal requirements for other actions, when site plan information for the subject property has previously been submitted to the Township and may be more appropriately supplemented with new information.

5.06 Right to Farm

The Township has found that protecting and preserving land for agriculture is in the best interests of the community and protects the public health, safety, and welfare by implementing community goals and policies. Agriculture often includes such activities as the intense use of farm equipment, machinery and grain dryers , plowing during dry and windy conditions, the raising of livestock and fowl, the use of irrigators over extended periods of time, and the use of soil amendments, including manure, herbicides, and pesticides. These activities may be considered nuisances or inconveniences in more urban settings; however, these activities are common in an agricultural community and vital to the sustenance of an agricultural economy. Accordingly, general farm activities or agricultural activities will not be considered a public nuisance notwithstanding its incidental noise, dust, and odor implications, provided that such activities do not violate any State statute or rule or any other laws or ordinances.

5.07 Opt Out of Minnesota Statutes, Section 462.3593

Pursuant to authority granted by Minnesota Statutes, section 462.3593, subdivision 9, the Town of Castle Rock opts out of the requirements of Minnesota Statutes, section 462.3593, which defines and regulates Temporary Family Health Care Dwellings as defined therein.

SECTION VI: DISTRICT PROVISIONS

6.01 Purpose

The zoning districts are designed to implement the intents and purposes of the Comprehensive Plan. Before any amendment to the boundary lines of the established zoning districts are made, any necessary amendments must first be made to the Comprehensive Plan.

For the purposes of this Ordinance, Castle Rock Township is hereby divided into the following zoning districts when the regulations outlined herein will apply:

| | |
|-------|------------------------------------|
| AG | Agriculture District |
| RR-I | Rural Residential District |
| RR-II | Rural Residential-Platted District |
| C/I | Commercial/Industrial District |
| SO | Shoreland Overlay District |
| FO | Floodplain Overlay District |
| ME | Mineral Extraction District |
| CR | Clustering |

The locations and boundaries of the districts established by this Ordinance are hereby set forth on the Zoning Map of Castle Rock Township, and said map is hereby made part of this Ordinance.

6.02 Reserved

6.03 Interpretation of the Zoning Map

Where, due to the scale, lack of detail, or illegibility of the Zoning Map as adopted and in effect, there is an uncertainty, contradiction or conflict as to the intended location of any zoning district boundary as shown thereon, the Planning Commission shall make an interpretation of said map upon request of any person. Any person aggrieved by any such interpretation may appeal such interpretation to the Board of Adjustment and Appeals. The Board of Adjustment and Appeals, in interpreting the Zoning Map or deciding any appeal, shall comply to the following standards:

- A. Zoning District boundary lines are intended to follow lot lines, or be parallel or perpendicular thereto, or along the centerlines of streets, rights-of-way, or watercourses, unless such boundary lines are fixed by dimensions shown on the Zoning Map.
- B. Where zoning district boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines.

- C. Where a zoning district boundary line divides a lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon.
- D. If, after the application of the foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary line, the boundary line shall be determined in a reasonable manner, considering the history of the uses of the property and the history of zoning ordinances and amendments in Castle Rock Township as well as all other relevant facts.

6.04 AG Agriculture District

A. Intent.

This district is intended primarily for application to those areas of the Township where it is necessary and desirable, because of the high quality of the soils, availability of water, and/or highly productive agricultural capability and the use of the land, to preserve, promote, maintain, and enhance the use of the land for agricultural purposes and to protect such land from encroachment by nonagricultural uses, structures, or activities.

B. Permitted Uses and Structures.

The following shall be permitted as uses by right:

1. Any and all forms of commercial agriculture and horticulture as defined by this Ordinance.
2. Animal Agriculture, subject to the standards and requirements of Section 7.4415 (Animal Feedlot) of this Ordinance.
3. Crop Agriculture
4. Farm buildings, greenhouses, and accessory structures, including farm buildings used for inside storage shall be permitted on properties classified Agricultural by the Dakota County Taxation Records.
5. Farm drainage and irrigation systems.
6. Forestry, grazing, and gardening.
7. One single-family farm dwelling unit per each quarter-quarter section, provided that:
 - a. The building right shall be made available to the first property owner with a buildable parcel within the quarter-quarter section to receive a building permit.
 - b. In determining whether an entire quarter-quarter is owned by the same person or entity, the Township shall not consider the following minor exceptions to entire quarter-quarter section being under the same ownership: cemeteries; railroads; public rights-of-way; public property; lakes; and rivers.
8. One single-family non-farm dwelling unit per each quarter-quarter section not containing a farm or non-farm dwelling unit, provided that:

Commented [LD6]: Simplify and Dakota County Assessors ID says you can build for AG purposes

- a. the dwelling unit shall be located on a separately conveyed parcel which shall equal or exceed ~~one~~2.5 acres in area and said dwelling unit shall be entirely located within a quarter-quarter section.
- b. the quarter-quarter section on which the dwelling unit is located shall be adjacent to the parcel on which the farm dwelling is located, and have at least 165 feet of frontage along a public road.
- c. the driveway serving the parcel shall be separated from adjacent driveways on the same side of a local road by a minimum of 100 feet.
- d. the following standards shall also apply to driveways:
 - 1) the minimum distance a driveway shall be from an intersection of two or more roads: 115 feet;
 - 2) the minimum setback between the side property line and the driveway: distance from the centerline of a driveway to the property line: 50 feet.
- e. the dwelling shall be set back at least 110 feet from a local road centerline and 130 feet from collectors & arterial road center line ~~and be separated at least 300 100 feet from the nearest farm building not used for the housing of farm animal(s)~~.

9. Historic sites.

10. Fairgrounds and other similar agriculturally-related uses.

11. State-licensed day care facilities serving 12 or fewer persons, in accordance with the provisions of Minnesota Statutes Section 462.357 Subd. 7.

12. State-licensed residential facilities serving six or fewer persons, in accordance with the provisions of Minnesota Statutes Section 462.357 Subd. 7.

13. Home occupations in accordance with the regulations thereof set forth elsewhere in this Ordinance.

14. Customary residential accessory uses, including retail solar electric systems.

C. Conditional Uses.

The following conditional uses may be approved by the Town Board in the AG Agriculture District provided that the provisions and requirements of Sections 8.05 and 6.04D of this Ordinance are fulfilled:

1. Township Parks
2. Elementary schools, local government buildings and facilities and government owned facilities for the maintenance of roads and highways.
3. Outdoor Recreation areas.
4. Churches, cemeteries, airports, schools, local government buildings and facilities, and government-owned facilities for the maintenance of roads and highways.
5. Agricultural service establishments primarily engaged in performing agricultural animal husbandry or horticultural services on a fee or contract basis including corn shelling, hay baling and thrashing, sorting, grading and packing fruits and vegetables for the grower, agricultural produce milling and processing, horticultural services, crop dusting, fruit picking, grain

Commented [FN7]: Changed in response to email titled "Addition to the previous list I gave you" dated Sept 20. Indicated house side yard setback is 10' and driveways cannot be set that close to a property line. Updated code so driveways can have side yard setback consistent to where an attached garage may be.

cleaning, land grading, harvesting and plowing, farm equipment service and repair, veterinary services, boarding and training of horses, commercial hunting and trapping, the operation of game reservations, and roadside stands for the sale of agricultural produce grown on the site.

6. Public utility, public service structures, and other utility lines, including but not limited to: overhead and underground wires, conduits and pipes for the transmission of electricity, crude petroleum, oil, gasoline, natural and artificial gas and other petroleum products (but not including direct service lines from a main line to a consumer), distribution substations, gas regulator stations, communications equipment buildings, pumping stations and other utility structures. All are subject to any performance standards in this Ordinance and all other applicable standards and regulations.
7. Kennels.
8. Communications towers and antennae, subject to the provisions of Section 7.12 of this Ordinance.

D. Standards for Granting Conditional Use Permits.

In addition to the standards described in Section 8.05A. of this Ordinance, the following regulations shall apply as minimum requirements for granting conditional use permits in AG Agriculture District:

1. Non-farm structures shall be sited on a separately surveyed and described parcel;
2. Access to the parcel shall be from a public road;
3. The activity or use of structure is not incompatible with the conduct of agriculture.
4. The activity or use of structure will not promote the establishment of non-agricultural uses or structures in the district.
5. Any use involving business, service, or process not completely enclosed in this structure shall be located on a lot appropriately fenced and buffered or landscaped so as to minimize the danger to public health and safety.

E. Prohibited Uses and Structures.

All other uses and structures which are not specifically permitted ~~as of by~~ right, ~~or~~ by conditional use permit, or interim use permit (including all types of data centers) shall be prohibited in the AG Agricultural District.

Commented [LD8]: Wanting to remove, but need to ask attorney first

F. Minimum Lot Sizes.

For permitted uses: two and a half(2.5) acres.

For conditional uses: one acre, but if the use requires a SSTS the minimum lot size shall be two and a half(2.5) acres.

G. Minimum Lot Dimension Requirements.

For permitted and conditional uses:

1. Lot width: 165 feet. [\(See Diagram in Definition\)](#)
2. Lot ~~depth~~ area: ~~165 feet~~^{2.5} acres.
3. Side yard setbacks for structures: 10 feet.
4. Rear yard setbacks for structures: 15 feet.
5. Structures setback from:
 - a. Local Road: 110 feet from centerline.
 - b. Collectors and Arterials: 130 feet from centerline.

H. Residential Dwelling- Farm Animal Structures Distance from Residential Dwellings-Farm Animal Structures.

Residential structures shall be separated at least 500 feet from the nearest building used for the housing of farm animal(s). Buildings being used for the housing of farm animal(s) shall be separated at least 500 feet away from residential dwelling(s) on adjacent property.

Commented [FN9]: This change was in response to the "Harry Notes and Twp Issues List" indicating other townships may have shorter setbacks from township roads and shortening it would bring most homes into compliance.

Commented [FN10R9]: Further changes requested reflect local: 110 and collectors and arterials: 130

Commented [LD11]: Board wanted this to read in a way that shows the farm animal structure needs to be 500 feet away from residential dwellings on adjacent property and not dwellings have to be 500 feet away from farm animal structures

H.I. Setback of Residence from Animal Feedlots.

Residences applying for a permit after July 1, 1999 shall be required to meet the following setbacks from a Registered Animal Feedlot or Animal Waste Storage Facility:

| Animal Units | Minimum Distance |
|----------------------------------|-------------------------|
| 1- 50 ¹ 50 | 400-500 feet |
| 51-150 | 500 f Feet |
| 151-750 | 1,000 feet |
| 751 or more | 1/4 mile |

This provision shall not apply to dwelling units that are accessory to the Animal Feedlot or Animal Waste Storage Facility from which the separation is required.

I. Residential Dwelling Distance Between Structures from Farm Animal Structures.

Residential structures shall be separated at least 500 feet from the nearest building used for the housing of farm animal(s).

J. Maximum Height.

Thirty-five (35) feet.

K. Interim Uses and Interim Use Permits.

1. Seasonal Mineral Extraction, subject to the regulations thereof as set forth elsewhere in this Ordinance and Subsection L., below.
2. The Town Board may, upon an applicant's compliance with the requirements set forth in the ordinances of the Township, approve an interim use permit to allow a use of a property for uses not specifically permitted in the AG district on a temporary basis as the Town Board deems appropriate following the recommendation of the Planning Commission and benefit the public good.
3. Wholesale Solar Electric Systems

L. Standards for Granting Interim Use Permits.

In addition to Section 8.08 of this Ordinance and other requirements of this Ordinance, the issuance of an Interim Use Permit shall be subject to the Township's findings for the following conditions:

1. The interim use shall not have an unmitigated negative impact on any environmental system, natural feature, or adjacent property.
2. The interim use shall not materially impact the Township's goal for agricultural preservation.
3. The interim use shall not be incompatible with area land uses.
4. The interim use shall not lead to the premature conversion of adjacent land uses to unplanned or incompatible land uses.
5. The interim use shall not create transportation access, congestion, or safety hazards or create undue burden and increased maintenance on local, collector, or arterial roadways.

6.05 RR-I Rural Residential District

A. Intent.

This district is intended for application in those areas of the Township where ~~untillable non-agricultural~~, vacant land has become subject to increased amounts of single family residential development. However, because the Township wishes to limit residential development in this area, because urban services such as central sewer and water are not immediately available, and because significant amounts of residential development will adversely affect surrounding agricultural operations, residential development in this district must be kept to a reasonable density.

B. Permitted Uses and Structures.

The following shall be permitted uses by right:

1. Any and all forms of commercial agriculture and horticulture as defined by this Ordinance.
2. Farm buildings, greenhouses, and accessory structures ~~shall be permitted on properties which contain a minimum of 10 tillable acres. (An additional 2.5~~

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acres is required if the property contains a buildable site or existing residential building.)

3. Farm drainage and irrigation system
4. Forestry, grazing, and gardening
5. One single-family dwelling
6. Non-farm single-family residential subdivisions shall be permitted on lots or parcels of land for which a deed has been recorded in the Office of the Dakota County Recorder upon or prior to August 31, 1978, or a lot or parcel of land that would have been a lot of record in the document conveying the lot had been recorded on the date of its execution, provided they are able to meet all applicable standards and requirements of this Ordinance and all other applicable Township and County ordinances, subject to the following area and dimensional regulations. The maximum number of lots, including existing principal dwelling, that may be created shall be based on the gross area of that tract which is to be subdivided, and which constitutes the lot of record existing prior to August 31, 1978, as follows:

| Area of Lot of Record on <u>August 31, 1978</u> | Maximum Number of Lots <u>Permitted</u> |
|--|---|
| 1 <u>-15</u> <u>15.99</u> acres | 1 |
| 16 <u>-25</u> <u>25.99</u> acres | 2 |
| 26 <u>-35</u> <u>35.99</u> acres | 3 |
| 36 <u>-45</u> <u>45.99</u> acres | 4 |
| 45 <u>-46</u> + acres | 1 additional unit For every 10 acres of land |

Parcels of land that had a building right prior to July 14, 2020 and have since been restricted from building due to a minimum 2.5 acre lot minimum for any property that would require an SSTS system, these properties shall be allowed to retain the building right provided they receive proper SSTS permits, and comply with other building performance standards of this chapter.

Property owners seeking building permits on a lot of record for items 6 and 7 above, must present evidence the lot was lawfully established as a lot of record prior to that date.

7. Non-farm single-family dwelling units must also meet the requirements of Section 6.04B.8. of this Ordinance. One single-family non-farm dwelling unit per each quarter-quarter section not containing a farm or non-farm dwelling unit, provided that
 - a. the dwelling unit shall be located on a separately conveyed parcel which shall equal or exceed one 2.5 acres in area and said dwelling unit shall be entirely located within a quarter-quarter section.
 - b. the quarter-quarter section on which the dwelling unit is located shall be adjacent to the parcel on which the farm dwelling is located, and have at least 165 feet of frontage along a public road.

- c. the driveway serving the parcel shall be separated from adjacent driveways on the same side of a local road by a minimum of 100 feet.
- d. the following standards shall also apply to driveways:
 - 1) the minimum distance a driveway shall be from an intersection of two or more roads: 115 feet;
 - 2) the minimum setback between the side property line and the driveway: distance from the centerline of a driveway to the property line: 50 feet.
- e. the dwelling shall be set back at least 110 feet from a local road centerline and 130 feet from collectors & arterial road center line and be separated at least 300 feet from the nearest farm building not used for the housing of farm animal(s).

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7.8. Historic Sites.

8.9. Home Occupations.

9.10. State-licensed day care facilities serving 12 or fewer persons, in accordance with the provisions of Minnesota Statutes Section 462.357 Subd. 7.

10.11. State-licensed residential facilities serving six or fewer persons, in accordance with the provisions of Minnesota Statutes Section 462.357 Subd. 7.

11.12. Customary residential accessory uses, including retail solar electric systems.

C. Conditional Uses.

The following conditional uses may be approved by the Town Board in the RR-I4 Rural Residential District provided that the provisions and requirements of Section 8.05 of this Ordinance are fulfilled:

1. Township parks
2. Churches, elementary schools, and local government buildings and facilities.
3. Public utility, public service structures, and other utility lines, including but not limited to: overhead and underground wires, conduits and pipes for the transmission of electricity, crude petroleum, oil, gasoline, natural and artificial gas and other petroleum products (but not including direct service lines from a main line to a consumer), distribution substations, gas regulator stations, communications equipment buildings, pumping stations and other utility structures. All are subject to any performance standards in this Ordinance and all other applicable standards and regulations.
4. Outdoor recreation areas.
5. Churches, cemeteries, airports, schools, local government buildings and facilities, and government-owned facilities for the maintenance of roads and highways.
6. Agricultural service establishments primarily engaged in performing agricultural animal husbandry or horticultural services on a fee or contract basis including corn shelling, hay baling and thrashing, sorting, grading and packing fruits and vegetables for the grower, agricultural produce milling and processing, horticultural services, crop dusting, fruit picking, grain cleaning, land grading, harvesting and plowing, farm equipment service and repair,

veterinary services, boarding and training of horses, commercial hunting and trapping, the operation of game reservations, and roadside stands for the sale of agricultural produce grown on the site.

7. Public utility, public service structures, and other utility lines, including but not limited to: overhead and underground wires, conduits and pipes for the transmission of electricity, crude petroleum, oil, gasoline, natural and artificial gas and other petroleum products (but not including direct service lines from a main line to a consumer), distribution substations, gas regulator stations, communications equipment buildings, pumping stations and other utility structures. All are subject to any performance standards in this Ordinance and all other applicable standards and regulations.

D. Prohibited Uses and Structures.

All other uses and structures which are not specifically permitted ~~as a by right, or as a conditional use permit, or interim use permit (including all types of data centers)~~ shall be prohibited in the RR-I Rural Residential District.

Commented [LD12]: Wanting to remove but asking attorney first

E. Minimum Lot Size.

1. For farm dwellings: two and a half (2.5) acres
2. For non-farm single-family dwellings: two and a half (2.5) acres
3. For conditional uses: one acre, but ~~If~~ the use requires a SSTS the minimum lot size shall be two and a half (2.5) acres. ~~Town Board will forward request to remove data center reference to City Attorney.~~

F. Minimum Lot Dimension Requirements.

For permitted ~~and approved~~ conditional ~~and approved interim~~ uses:

1. Minimum Lot width: 165 feet. (See Diagram in Definition)
2. Minimum Lot size depth: ~~2.5 acres 165 feet~~
3. Side yard setback for structures: 10 feet.
4. Rear yard setback for structures: 15 feet.
5. Structure setback from:
 - a. Local Road: 110 feet from centerline.
 - b. Collectors and Arterials: 130 feet from centerline.

G. Maximum Height Residential Dwelling Distance from Farm Animal Structures.

Residential structures shall be separated at least ~~500~~~~300~~ 100 feet from the nearest building used for the housing of farm animal(s).

Commented [FN13]: This change was in response to the "Harry Notes and Twp Issues List" indicating other townships may have shorter setbacks from township roads and shortening it would bring most homes into compliance.

Commented [FN14R13]: Changed back to 110' and 130' from 80' and 100'

G-H. Maximum Height.

1. For farm uses: 35 feet
2. For non-farm ~~and approved~~ conditional uses ~~and approved interim uses~~: 35

feet.

H.I. Interim Uses and Interim Use Permits
2. Wholesale Solar Electric Systems

I.J. Standards for Granting Interim Use Permits. In addition to Section 8.08 of this Ordinance and other requirements of this Ordinance, the issuance of an Interim Use Permit shall be subject to the Township's findings for the following conditions:

1. The interim use shall not have an unmitigated negative impact on any environmental system, natural feature, or adjacent property.
2. The interim use shall not materially impact the Township's goal for agricultural preservation.
3. The interim use shall not be incompatible with area land uses.
4. The interim use shall not lead to the premature conversion of adjacent land uses to unplanned or incompatible land uses.
5. The interim use shall not create transportation access, congestion, or safety hazards or create undue burden and increased maintenance on local, collector, or arterial roadways.

6.06 RR-II Rural Residential/Platted District

A. Intent.

This district is intended for application to certain platted areas within the Township that existed prior to January 1, 1998. These areas were previously platted at a higher density than is currently allowed under the RR-I District in this Ordinance. The Township desires to protect the integrity, safety, and land use compatibility of these areas by regulating uses to a greater degree than in the RR-I District. Some platted areas in the Township are also governed by covenants that may be more restrictive than the provisions of this Ordinance. Property owners are responsible for being aware of and conforming to those covenants, if applicable.

B. Permitted Uses and Structures.

The following shall be permitted uses by right:

1. Single family dwellings and customary accessory uses including retail solar electric systems.
2. Home occupations.
3. Public parks and recreation facilities.
4. Greenhouses for cultivation only of plants.
5. State-licensed day care facilities serving 12 or fewer persons, in accordance with the provisions of Minnesota Statutes Section 462.357 Subd. 7.
6. State-licensed residential facilities serving six or fewer persons, in accordance with the provisions of Minnesota Statutes Section 462.357 Subd. 7.

C. Conditional Uses.

The following conditional uses may be approved by the Town Board in the RR-II Rural Residential/Platted District provided that the provisions and requirements of Section 8.05 of this Ordinance are fulfilled.

1. Churches, synagogues, and temples.
2. Elementary schools.
3. Day care centers licensed by the State of Minnesota serving twelve (12) or fewer persons.
4. Township parks

D. Prohibited Uses/Structures.

All other uses and structures which are not specifically permitted ~~as aby~~ right ~~or~~, by conditional use permit, or by interim use permit ~~(including all types of data centers)~~ shall be prohibited in the RR-II Rural Residential/Platted District.

Commented [LD15]: Wanting to remove but asking attorney first

E. Minimum Lot Requirements.

1. For new lots of record permitted uses: two and a half (2.5) acres

~~1.2.~~ For conditional uses: two and a half (2.5) acres

F. Minimum Lot Dimension Requirements.

1. For permitted-~~and conditional~~approved conditional uses, and approved interim uses:

- a. Lot width: 165 feet. (See diagram in Definition)
- b. Lot ~~depth~~area: ~~165 feet~~2.5 acres.
- c. Side yard setback: 10 feet.
- d. Rear yard setback: 15 feet.
- e. Front yard structure setback
Local Road: 110 feet from centerline.
Collectors and Arterials: 130 feet from centerline.

G. Residential Dwelling Distance from Farm Animal Structures.

Residential structures shall be separated at least-100-feet from the nearest building used for the housing of farm animal(s).

G.H. Maximum Height.

For permitted, approved conditional, and approved interim uses: For permitted and conditional uses: 35 feet.

6.07 C/I Commercial/Industrial District

A. Intent.

The purpose of this district is to provide locations for light manufacturing processes and limited commercial uses. For the most part, the manufacturing intended in this District is composed of processing or assembly of previously processed materials. It is the intent of the Township to limit uses in this district only to those that meet the standards of Minnesota Rules Chapter 7080 and can demonstrate that waste treatment resulting from the operation can be managed through individual on-site treatment systems. Uses that cannot operate under the standards of Minnesota Rules Chapter 7080 and other applicable regulations will not be permitted.

B. Permitted Uses.

The following uses shall be permitted in the Commercial/Industrial District:

1. Uses of a light industrial nature including, but not limited to, the following:
 - a. Manufacture and assembly of electrical appliances, electronics and communication equipment, professional, scientific, and controlling instruments, and photographic or optical products.
 - b. Manufacturing, compounding, assembling, or treatment of articles or merchandise from previously prepared materials such as cloth, fiber, canvas, leather, cellophane, paper, glass, plastics, stone, textiles, wood, and metals, including light steel or other light metal, light metal mesh, pipe, rods, shapes, strips, wire, or similar component parts.
 - c. Laboratories with or without outdoor storage.
 - d. Blacksmith, welding, machine, or similar shops.

2. The following commercial businesses, trades and services:

Bottling of soft drinks or milk and associated distribution stations, carpentry or woodworking shops, printing shops, sheet metal shops, sign painting shops, truck or motor freight terminals or warehouses, wholesale business, warehousing or service establishments, building materials sales and storage yards, feed and grain sales, milling and/or storage, veterinary clinics, vehicle sales, vehicle repair shops, and miscellaneous repair shops, equipment, and storage yards.

3. Any other use that is determined by the Township to be of the same general character as the above permitted uses.

C. Accessory Uses.

1. Uses customarily accessory and incidental to any principal permitted use or

authorized conditional use, provided a principal use exists.

2. Storage modules subject to the following standards:
 - a. the exterior surface shall be painted and kept in good repair,
 - b. the storage module shall be vented as needed for safety purposes,
 - c. the storage module shall be screened from the adjacent roadway.
3. Retail solar electric systems.

D. Conditional Uses.

1. Adult establishments, subject to the regulations as set forth elsewhere herein and any conditions set under the conditional use permit. No adult establishment may be located within 1,000 feet of another adult establishment, a residential use, a day care provider, an on- or off-sale liquor establishment, a park or public facility. No two (2) adult establishments shall be located in the same building.

Data Centers that meet the following requirements:

| <u>Performance Standard</u> | <u>Requirement</u> |
|--|--|
| <u>1 Building Size (maximum)</u> | <u>400,000 square feet</u> |
| <u>2 Setback (minimum)</u> | <u>1500 foot (structure), 500 foot (fence)</u> |
| <u>3 Building Height (maximum)</u> | <u>40 feet</u> |
| <u>4 Power Level</u> | <u>100 megawatts</u> |
| <u>5 Water Usage (maximum)</u> | <u>15,000 gallons per day average, 100,000 gallons per day maximum</u> |
| <u>6 Well permit</u> | <u>A well permit shall be acquired from the MN Department of Natural Resources prior operation.</u> |
| <u>7 Noise</u> | <u>Any noise emitted from the site shall adhere to Minnesota Pollution Control Agency (MPCA) noise standards.</u> |
| <u>12 Fire and Emergency</u> | <u>Testing of fire suppression systems shall be conducted annually.</u> |
| <u>14 Environmental Impact Study (EIS)</u> | <u>In accordance with MN State Statute 4410.2000 an Environmental Impact Study (EIS) may be required when the township determines that, because of the nature or location of a proposed project, the project may have the potential for significant environmental effects.</u> |

- 1) Structure setback: 1,500 feet minimum
- 2) Fence Setback: 500 feet minimum
- 3) Building size: 400,000 square feet maximum
- 4) Building height: 40 feet maximum
- 5) Power Level: maximum 100 megawatts
- 6) Water usage: 15,000 gallons per day average, 100,000 gallons per day maximum
- 7) A well permit shall be acquired from the MN Department of Natural Resources prior operation.
- 8) Any noise emitted from the site shall adhere to Minnesota

Pollution Control Agency (MPCA) noise standards.
9) Testing of fire suppression systems shall be conducted annually.
10) In accordance with MN State Statute 4410.1000 and 4410.2000 an Environmental Assessment Worksheet (EAW) and/or an Environmental Impact Study (EIS) may be required when the township determines that, because of the nature or location of a proposed project, the project may have the potential for significant environmental effects.

E. Prohibited Uses/Structures.

All other uses and structures which are not specifically permitted by right, by conditional use permit, or by interim use permit (including all types of data centers) shall be prohibited in C/I Commercial/Industrial District.

D. Height Regulations:

No structure shall exceed fifty (50) feet in height.

E.F. Minimum Lot Size.

1. Commercial Businesses, Trades and Service Uses: two (2) acres
2. Light Industrial Uses: five (5) acres
- 2.3. No single lot shall exceed 25.0 acres in size and no multiple lots shall be combined to exceed 25.0 acres in size.

F.G. Setback and Access Minimum Lot Dimension Requirements.

1. The following structure setback requirements from lot lines shall be met:
 - a. Front Yard (platted) Fifty (50) feet
 - b. Side Yard Thirty (30) feet
 - c. Rear Yard Thirty (30) feet
2. The following structure setback requirements for unplatted property shall be met:
 - a. Local road 110 feet from centerline
 - b. County / State Road 130 feet from centerline

The following setback requirements from lot lines shall be met:

1. Platted front yard setback for structures: fifty (50) feet
2. Side yard setback for structures: thirty (30) feet.
3. Rear yard setback for structures: thirty (30) feet.

The following setback requirements for unplatted property shall be met:

3. Local road structure setback 110 feet from centerline
4. County / State road structure setback 130 feet from centerline

Commented [FN16]: This change was in response to the "Harry Notes and Twp Issues List" indicating other townships may have shorter setbacks from township roads and shortening it would bring most homes into compliance.

Commented [FN17R16]: Changed back to 110' and 130' from 80' and 100'

Access shall be in conformance with State or County guidelines, where applicable. Road rights-of-way shall be identified in order to insure that sufficient land is available to provide for a service road, if required by the Township, in order to meet State or County access requirements.

H. Height Regulations.

No structure shall exceed fifty (50) feet in height.

G.I. Minimum Landscaping Requirements.

For permitted~~d andd approvedd~~d and conditional uses:

1. One (1) overstory tree per 3,000 square feet of land area.
2. One (1) foundation planting per 100 square feet of building area.
3. At least sixty (60) percent of the overstory trees must be deciduous trees.
4. Minimum planting size:
 - a. Deciduous: 2-1/2" caliper.
 - b. Coniferous: 6 feet in height.
 - c. Foundation: 1/3 mature size at planting.
5. Impervious surfaces shall not exceed twenty-five (25%) of the total lot area.
7. Existing uses may expand if there is no additional runoff of surface water.

H. Conditional Uses.

~~Adult establishments, subject to the regulations as set forth elsewhere herein and any conditions set under the conditional use permit. No adult establishment may be located within 1,000 feet of another adult establishment, a residential use, a day care provider, an on- or off-sale liquor establishment, a park or public facility. No two (2) adult establishments shall be located in the same building.~~

6.08 SO Shoreland Overlay District

A. Intent.

The SO District is intended to apply to properties within 300 feet of the shoreline of public waters, which for the purpose of this Ordinance shall be construed to be the stream channel of the Vermillion River, Chub Creek, and certain tributaries. Such properties require special regulations for the minimum protection of the quality of the shoreland area, and the health and safety of shoreland residents.

B. Permitted Uses and Structures.

Permitted uses in the Shoreland Overlay District shall be the same as the permitted

uses that are allowed within the zoning district that underlies the Shoreland District. Consult the zoning map to determine which District provisions would apply to the parcel(s) of land being considered.

C. Conditional Uses and Structures.

Conditional uses in the Shoreland Overlay District shall be the same as the conditional uses that are allowed within the zoning district that underlies the Shoreland District. Consult the zoning map to determine which District provisions would apply to the parcel(s) of land being considered.

D. Prohibited Uses and Structures.

All other uses and structures which are not specifically allowed as permitted or conditional uses, or cannot be considered as an accessory use, shall be prohibited in the SO Shoreland Overlay District.

E. Minimum Lot Requirements, Minimum Land Dimensions, and Maximum Heights.

Areas and height regulations for the Shoreland Overlay District shall be the same as the regulations required within the zoning district which underlies the Shoreland District. Consult the zoning map to determine which district regulations would apply to the parcel(s) of land being considered.

F. County Regulations.

The Dakota County Shoreland Ordinance prescribes additional land use regulations for the Shoreland Overlay District. If any specific regulation in the County Ordinance differs from any specific Township regulation, the most restrictive specific regulation shall apply.

6.09 FO Floodplain Overlay District

A. Intent.

The FO District is intended for application in those areas of the Township that are subject to periodic flooding which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. It is the purpose of this Ordinance to protect the public health, safety, and general welfare by regulating the placement of structures and facilities in flood-prone areas.

B. Permitted Uses.

The following shall be permitted uses by right:

1. Any and all form of commercial agriculture and horticulture as defined by this Ordinance; structures are subject to the requirements of the Dakota County Floodplain Ordinance.
2. Forestry, grazing, and gardening.
3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, picnic grounds, boat launching sites, swimming areas, parks, wildlife and nature preserves, target ranges, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, hiking and horseback riding trails; structures are subject to the requirements of the Dakota County Floodplain Ordinance.
4. Residential open space uses such as lawns, gardens, parking areas, and play areas.

C. Prohibited Uses and Structures.

All uses and structures which are not specifically permitted as of right shall be prohibited in the Floodplain Overlay District.

D. County Regulations.

The Dakota County Floodplain Ordinance prescribes additional land use regulations for the Floodplain Overlay District. If any specific regulation in the County ordinance differs from any specific Township regulation, the most restrictive specific regulation shall apply.

E. Disclaimer of Liability.

The FO District herein established is intended to provide a reasonable approach to flood control based on present information. As additional information becomes available, the extent of the various boundaries shall be so altered to maintain this reasonableness. This Ordinance does not imply that areas beyond the FO Floodplain Overlay District limits will be free from flooding; nor shall this Ordinance, or districts established herein, create a liability on the part of, or cause action against, Castle Rock Township or any office, official, or employee thereof, for any flood damage that may result from reliance upon this Ordinance or flood district so established.

6.10 ME Mineral Extraction District

A. Intent.

The ME District is intended to allow mineral extraction within the Township in areas in which it would have little or no impact on adjacent land uses, would not negatively impact agricultural preservation efforts of the Township, would not impact existing roadways or require improvements to existing roadways, would not impact natural

areas, and would not impact administrative requirements of the Township.

B. Interim Uses.

Mineral Extraction is allowed as an interim use, subject to the regulations thereof as set forth elsewhere in this Ordinance and the requirements of Section 8.08 and Section 7.19 of this Ordinance.

C. Standards for Granting Interim Use Permits.

In addition to the provisions of Section 8.08 of this Ordinance and other requirements of this Ordinance, the issuance of an Interim Use Permit shall be subject to the Township's findings for the following conditions:

1. The interim use shall not have an unmitigated negative impact on any environmental system, natural feature, or adjacent property.
2. The interim use shall not negatively impact the Township's goal for agricultural preservation.
3. The interim use shall not be incompatible with area land uses.
4. The interim use shall not lead to the premature conversion of adjacent land uses to unplanned or incompatible land uses.
5. The interim use shall not create transportation access, congestion, or safety hazards or create undue burden and increased maintenance on local, collector, or arterial roadways.

6.11 CR Clustering Residential

A. Intent.

The Township recognizes the need to allow for the construction of residential housing in the AG and RR-I districts. The Township further recognizes the need to prevent the encroachment of residential housing upon the agricultural and other unfillable, vacant rural lands within the Township. The provisions of this Subsection 6.11 are intended to allow the construction of more than one residential dwelling unit per quarter-quarter section provided that any additional residential dwelling unit built within the quarter-quarter section is pursuant to the transfer of the building right(s) of another quarter-quarter section located within the same quarter section subject to the provision of this Subsection 6.11.

The Township recognizes the need to allow for the construction of residential housing in the AG and RR-I districts. The Township further recognizes the need to prevent the encroachment of residential housing upon the agricultural lands of the Township. The provisions of this Subsection are intended to allow the construction of residential dwelling units at a greater density than is otherwise allowed under this Ordinance in certain circumstances and subject to certain requirements as set out herein.

B. Definitions.

The following terms, as used in this Section, shall have the meaning stated:

1. *Applicant* means the owner of the dominant quarter-quarter section;
2. *Building Rights* means the right to construct a residential dwelling unit in a quarter-quarter section within the Township as permitted in this zoning ordinance and any other ordinance of the Township;
3. *Building Rights Transfer Permit* means the permit required to transfer building rights;
4. *Building Rights Transfer Fee* means the fee required to be paid with a building rights transfer permit application;
- 4.5. *Clustering* means the grouping of residential dwellings in a quarter section within the Township so as to allow construction of housing while preventing major encroachment of residential housing upon the agricultural and other tillable, vacant rural lands.
5. *Dominant Parcel Property* means the parcel or property to which the building rights will be transferred;
5. *Dominant Quarter-Quarter Section or Dominant Parcel/Property* means the quarter-quarter section or parcel of land to which the building rights will be transferred.
6. *Servient Quarter-Quarter Section or Servient Parcel/Property* means the quarter-quarter section or parcel of land from which the building rights will be transferred.
6. *Dominant Quarter-Quarter Section* means the quarter-quarter section to which the building rights will be transferred;
6. *Servient Parcel Property* means the parcel or property from which the building rights will be transferred; and
7. *Servient Quarter Quarter Section* means the quarter-quarter section from which the building rights will be transferred;

C. Application.

Clustering residential may be permitted only upon the issuance of a building rights transfer permit in accordance with the provisions herein. An application for a building rights transfer permit shall provide all information as set forth herein and be submitted, along with the building rights transfer permit fee, to the Town Clerk. The building rights transfer permit fee shall be set by a duly adopted Town Board Resolution.

An application for a building rights transfer permit providing all information as set forth herein and the building rights transfer fee shall be submitted to the Town Clerk. The building rights transfer fee shall be set by a duly adopted Town Board Resolution.

The application shall contain the following information:

1. The name, address, and contact telephone number of the applicant;
2. The names, addresses, and contact telephone numbers for each owner of land within both the dominant and servient quarter-quarter section(s);

3. The legal description for the servient quarter-quarter section;
4. The legal description for the dominant quarter-quarter section;
5. A statement that the dominant quarter-quarter section meets all requirements of the ordinances of the Township;
6. When one owner owns the entire proposed servient quarter-quarter section, the owner shall sign a document established by the Town Board, consenting to the transfer building rights to the proposed dominant quarter-quarter section;
7. When there are multiple owners of a parcel or parcels within the proposed servient quarter-quarter section, each and every owner of each and every parcel within the proposed servient quarter-quarter section shall sign a document established by the Town Board consenting to the transfer of building rights to the dominant quarter-quarter section; and
8. Such other and further information as the Planning Commission and Town Board deem necessary.

1. The name, address, and contact telephone number of the applicant;
2. The names, addresses, and contact telephone numbers for each owner of land within the servient quarter-quarter section(s);
3. The legal description for the servient quarter-quarter section;
4. The legal description for the dominant quarter-quarter section;
5. A statement that the dominant quarter-quarter section meets all requirements of the ordinances of the Township;
6. Cluster Residential within the AG District
 - a. When one owner owns the entire proposed servient quarter-quarter section, the owner shall sign a document established by the Town Board, consenting to transfer building rights to the proposed dominant quarter-quarter section;
 - b. When there are multiple owners of a parcel or parcels within the proposed servient quarter-quarter section, each and every owner of each and every parcel within the proposed servient quarter-quarter section shall sign a document established by the Town Board consenting to the transfer of building rights to the dominant quarter-quarter section; and
 - c. Such other and further information as the Planning Commission and Town Board deem necessary.
7. Cluster Residential within the RR-I District
 - a. When one owner owns the entire proposed servient property in the RR-I district, the owner shall sign a document established by the Town Board consenting to transfer building rights to the proposed dominant parcel;
 - b. When there are multiple owners conveying building rights, each and every servient property owner shall sign a document established by the Town Board consenting to the transfer of building rights to the dominant parcel; and
 - c. Such other and further information as the Planning Commission and Town Board deem necessary.

D. Requirements for Issuance of Building Rights Transfer Permit.

The building rights within a quarter-quarter section located within the AG district or RR-I district shall be transferable only after the applicant receives a Building Rights Transfer Permit in accordance with this Subsection and as otherwise permitted under Section 6.11 of Ordinance 2013-01, effective January 31, 2013. The transfer of building rights shall be effective only after the issuance of the Building Rights Transfer Permit. Following the submission of a complete application, the Planning Commission and Town Board shall verify the eligibility of the transfer of building rights from the servient quarter-quarter section to the dominant quarter-quarter section.

The building rights for a property in the RR-I District or for a quarter-quarter section located within the AG shall be transferable only after the applicant receives a Building Rights Transfer Permit in accordance with this Subsection. The transfer of building rights shall only occur after the issuance of the Building Rights Transfer Permit. Following the submission of a complete application, the Planning Commission and Town Board shall verify the eligibility of the transfer from the servient property to the dominant property.

The Town Board shall not issue a permit unless:

1. The building rights to be transferred are assigned to a specific and identifiable parcel of land owned by the applicant and meeting all provisions of the Township's ordinances;
2. The servient parcel is located within the same quarter section as the dominant parcel;
3. The servient and dominant parcels are located within the same zoning district (both in AG district or both in RR-I district);
4. The transfer of building rights is restricted to the transfer of a minimum of 10 acres and in multiples of 10 acres up to 40 acres within RR-I districts and minimum of a quarter-quarter section parcel in Ag districts;
5. The servient parcel is not subject to an orderly annexation agreement;
6. The servient parcel is not a parcel for which a mining permit is in effect;
7. The servient parcel is not a parcel used for commercial, recreational, educational, religious, or public purposes;
8. The servient parcel is a parcel upon which a residential dwelling unit may be permissibly built under the ordinances of this Township. Parcel(s) that are deemed non-buildable by the Town Board due to surface water, wetlands, floodplains, inaccessible building sites, easements, or other encumbrances shall be deemed to possess no building rights to transfer;

E. Agricultural Building Rights Transfer

Commented [FN18]: Added headings and separate sections to separate AG and RR-I building rights transfer.

Notwithstanding the maximum residential dwelling units restriction for properties located within Agricultural district, one (1) residential unit may be built upon each quarter-quarter section of a quarter section, even if it would cause there to be more than four (4) residential dwelling units in the quarter section, provided that the following conditions are met:

1. The quarter-quarter section upon which the residential dwelling unit is to be built meets all other provisions of this Subsection and all ordinances of the Township;
2. No residential dwelling unit existed within the quarter-quarter section on or after the effective date of this Subsection; and
3. No building rights have been transferred from the quarter-quarter section.

F. Rural Residential (RR-I) Building Rights Transfer

Notwithstanding the maximum residential dwelling units restriction for properties located within RR-I district, four (4) residential units may be built upon each quarter-quarter section of a quarter section, even if it would cause there to be more than sixteen (16) residential dwelling units in the quarter section, provided that the following conditions are met:

1. The quarter-quarter section upon which a residential dwelling unit is to be built meets all other provisions of this Subsection and all ordinances of the Township;
2. No more than 4 residential dwelling units existed within the quarter-quarter section on or after the effective date of this Subsection; and
3. No more than 4 building rights have been transferred from the quarter-quarter section.
4. The building rights to be transferred are assigned to a specific and identifiable parcel of land owned by the applicant and meeting all provisions of the Township's ordinances;
5. The servient property is located within the same quarter section as the dominant property;
6. The servient and dominant properties are located within the AG district or the RR-I district;
7. The transfer of development rights are available to be transferred on multiples of 10 acre in the RR-I district or a quarter-quarter section in the AG district;
8. The servient property is not subject to an orderly annexation agreement;
9. The servient property is not a parcel for which a mining permit has been issued;

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7. The servient property is not a parcel used for commercial, recreational, educational, religious, or public purposes;
8. The servient property is a parcel upon which a residential dwelling unit may be permissibly built under the ordinances of this Township. Parcels that are deemed non buildable by the Town Board due to surface water, wetlands, floodplains, inaccessible building sites, easements, or other encumbrances shall be deemed to possess no building rights to transfer;
9. The number of residential dwelling shall not exceed the number of residential dwelling units that may be built within all parcels of the quarter section under the provisions of the zoning ordinance and other regulations.

F.G. Standards and Requirements.

1. All residential dwelling units prior to the enactment of this Ordinance shall be counted toward the total number of residential dwelling units allowed per quarter-quarter section.
2. No residential dwelling units clustered within a quarter-quarter section shall share a well, driveway, or septic system.
3. The residential dwelling unit to be built with the transferred building rights shall be setback no farther than 1,200 feet from the road used to access the residential dwelling unit.
4. The transfer of building rights of a servient parcel shall be permanent and the in the future the dominant section or parcel shall be deemed buildable and the servient section or parcel shall be deemed non buildable.
5. The transfer of building rights from the servient parcel to the dominant parcel is permanent. The Building Rights Transfer Permit shall be filed with the County Recorder or Registrar of Titles within 30 days of the issuance of the building rights transfer permit. If it is not recorded within the given timeframe the permit and the associated transfer of building rights shall be deemed null and void. The Town Clerk shall have the authority to file the Building Rights Transfer Permit with the Recorder's Office for recording, provided the applicant shall be solely responsible for all recording fees which shall be paid with the applicant application for the Building Rights Transfer Permit. A copy of the stamped recorded building rights transfer permit shall be provided to the Town Clerk upon receipt by the applicant. No building permit shall be issued for the dominant parcel until the building rights transfer permit is recorded and the Town Clerk has the recorded copy.
1. All residential dwelling units lawfully constructed or placed prior to the enactment of this Ordinance shall be counted toward the total number of residential dwelling units allowed.
2. No residential dwelling units clustered shall share a well, driveway, or septic

Commented [LD20]: Added in becomes null and void after 30 day timeframe

system.

3. The residential dwelling unit to be built with the transferred building rights shall be setback no farther than 1,200 feet from the road used to access the residential dwelling unit;
4. The transfer of building rights of a servient parcels;
5. The transfer of building rights from the servient parcel to the dominant parcel is permanent and the Building Rights Transfer Permit shall be recorded with the County Recorder or Registrar of Titles.

SECTION VII: PERFORMANCE STANDARDS

7.01 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, unless stated otherwise. The Town Board, Planning Commission, 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 landowner 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, locations of road rights-of-way, boundary lines, equipment and construction processes to be used, hours of operation, and provisions for 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.

7.02 Home Occupations

- A. Home occupations on the premises shall be conducted solely by persons residing in the residence as well as up to two (2) employees who do not reside in the residence who work on the premise.
- B. All occupational activities and storage shall take place within structures on the premises, or conducted off the premises.
- C. There shall be no alteration to the exterior of the residential dwelling, accessory building or yard that in any way alters the residential character of the premises.
- D. No sign, display, or device identifying the occupation shall be used without prior approval by the Township.
- E. The occupation shall not be visible or audible from any property line.
- F. The occupation shall not involve the retail sale or rental of products on the premises.
- G. Unless completely enclosed within an approved structure, no vehicle used in the conduct of the occupation shall be parked, stored, or otherwise present at the premises other than such as is customarily used for domestic or household purposes.
- H. Only on-site, off street parking facilities typically associated with the residence shall be used.

- I. The conduct of an occupation or the use of substances which may be hazardous to or in any way jeopardize the health, safety, or welfare of neighbors and neighboring property shall not be permitted.
- J. Employees or contract employees should not start nor end their workday at the home office on a regular basis.

7.03 Structures and Accessory Uses

- A. Foundation: All residential structures in the community shall be firmly anchored to a wood or concrete block foundation below the frost line, and attached with anchor bolts, in accordance with the Minnesota State Building Code in effect at the time the building permit is granted, and as required by the manufacturer's installation instructions.
- B. Square Footage: All residential structures consisting of one single level, shall possess a minimum of 960 ~~square feet~~ of livable floor area, excluding any basement floor area. All multi-level or split-level residential structures shall possess a minimum of 1,248 ~~square feet sq. ft.~~ of livable floor area, excluding any basement floor area.
- C. Wall Joist Construction: All residential structures shall possess wall joist construction consisting of framing materials of at least 1 1/2" x 3 1/2" dimensions.
- D. Roof Pitch: All residential structures, except earth-sheltered homes, shall possess pitched roofs and snow load capacity to meet minimum requirements of the State Building Code.

7.04 Dwelling Units Prohibited

No basement, garage, tent, trailer, or accessory building shall at any time be 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. Earth-sheltered homes, as defined by this Ordinance, are exempt from this Section.

7.05 Landscaping Maintenance

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

7.06 Traffic Control

The traffic generated by any use shall be channeled 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. Internal traffic shall be so regulated as to ensure its safe and orderly flow.

On corner lots, nothing shall be placed or allowed to grow in such a manner as to materially 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, not exceeding front yard setback requirements, such that a clear line of vision of the intersecting street is maintained.

7.07 Off-Street Parking

A. Parking areas shall conform to the following minimum requirements. In figuring the needed area, one (1) parking space and associated access area shall equal three hundred twenty (320) square feet of area. Parking spaces shall be at least ten (10) feet by twenty (20) feet in area. Access lanes shall be at least twelve (12) feet wide for one-way directional traffic and at least twenty-four (24) feet wide for two-way directional traffic. Parking and maneuvering areas shall be constructed of an all-weather surface approved by the Town Board. All parking areas shall be located on the same parcel as the principal use, except as allowed herein. Overnight parking on public streets is prohibited. The minimum number of parking spaces required for each use is based upon the table below. For uses not listed below or in instances where the applicant clearly demonstrates the number of parking spaces required is inappropriate, the Town Board shall determine the number of parking spaces. All commercial and industrial parking areas shall include handicapped parking requirements.

| <u>LAND USES</u> | <u>PARKING REQUIRED</u> |
|-------------------------|---------------------------------------|
| Residences | 2 spaces per dwelling unit |
| Restaurant/Church | 1 space per 3 seats |
| Offices | 5 spaces per 1000 sf gross floor area |
| General Retail | 5 spaces per 1000 sf gross floor area |
| General Service | 4 spaces per 1000 sf gross floor area |
| Trade Business | 3 spaces per 1000 sf gross floor area |
| Manufacturing | 3 spaces per 1000 sf gross floor area |
| Other Industry | 3 spaces per 1000 sf gross floor area |
| Warehousing | 2 spaces per 1000 sf gross floor area |

B. Off-street parking located on a parcel that is not the parcel on which the principal use is located shall be referred to as "off-site off-street parking." Off-site off-street parking may be permitted as a conditional use provided that the conditions set forth below are met. Any conditional use permit for off-site off-street parking, or any right to obtain a conditional use permit for the same, shall terminate upon the development of the parcel on which the off-site off-street parking is located or the termination of the principal use on the parcel served by the off-site off-street parking. Any failure to comply with the conditions set forth herein, the conditions set forth on the conditional use permit, or any ordinance of the Township shall constitute sufficient cause for the revocation of the conditional use permit by the Town Board following a public hearing. The conditions required for the approval of the off-site off-street parking are as follows:

1. The parcel on which the principal use is located cannot physically accommodate the parking needs of the principal use.
2. The parcel on which the off-site off-street parking is proposed shares a lot line with the parcel on which the principal use is located.
3. The parcel on which the off-site off-street parking is proposed shall contain no greater number of parking spaces than the number of parking spaces located on the parcel on which the principal use is located.
4. The parcel on which the off-site off-street parking is proposed is zoned in the same district as the parcel on which the principal use is located.
5. The parking and maneuvering areas of the off-site off-street parking shall be constructed of an all-weather surface approved by the Town Board.
6. The owner of the parcel on which the off-site off-street parking is proposed has signed the conditional use permit application as a co-applicant.

7.08 Relocating Structures

A conditional use permit ~~shall be is~~ required for all permanent relocation of structures, including relocation within the same property boundaries. Relocation of construction sheds and other temporary structures to be located on a lot for less than 18 months requires no permit. For relocation of structures requiring a permit, the applicant shall submit photographs showing all sides of the structure to be moved and photographs of the lot on which the structure is to be located. The Planning Commission may also require photographs of surrounding lots and structures. The Planning Commission shall consider the compatibility of the structure to be relocated with structures and uses on surrounding lots. The Planning Commission shall report its conclusions to the Town Board. If the Town Board decides that relocation of the structure would depreciate the value of structures or lots surrounding the lot upon which it is to be moved, then the permit shall be denied.

7.09 Trees and Woodlands Preservation

The following restrictions shall apply to all residential development occurring in wooded areas:

- A. Structures shall be located in such a manner that the maximum number of trees shall be preserved.
- B. No trees shall be cut, except those occupying the actual physical space in which a structure is to be erected.
- C. Prior to the granting of a building permit, it shall be the duty of the person seeking the permit to demonstrate that there are no feasible or prudent alternatives to the

cutting of trees on the site and that if trees are cut, he or she will restore the density of trees to that which existed before development, but in no case shall he or she be compelled to raise the density above ten (10) trees per acre.

- D. Forestation, reforestation, or landscaping shall utilize a variety of tree species and shall not utilize any species presently under disease epidemic. Species planted shall be hardy under local conditions and compatible with the local landscape.
- E. Development, including grading and contouring, shall take place in such a manner that the root zone aeration stability of existing trees shall not be affected and shall provide existing trees with a watering equal to one-half the crown area.
- F. Development in woodlands shall not reduce the existing crown cover greater than fifty (50) percent and shall be conducted in such a manner that the understory and litter is preserved.
- G. Notwithstanding the above, the removal of trees seriously damaged by storms or other acts of God or the removal of diseased trees shall not be prohibited.

7.10 Water and Soil Resource Management

A. Purpose and Administration.

1. Introduction

Uncontrolled and inadequately planned use of natural resources adversely affects the public health, safety, and general welfare by contributing to pollution, erosion, flooding, and other environmental problems, and by creating nuisances, impairing the local tax base, and hindering the ability of the Township to provide adequate flood protection. The Township further finds that:

- a. the public health, safety, and welfare is adversely affected by poor ambient water quality and by flooding that results from inadequate management of both the quality and quantity of stormwater;
- b. every parcel of real property, both public and private, either uses or benefits from the maintenance of the stormwater conveyance system; and growth in the Township will contribute to and increase the need for improvement and maintenance of the stormwater conveyance system.

2. Intent

The intent of this Section is to provide for:

- a. The protection, preservation, property maintenance, and use of the water and soil resources of the Township in order to minimize disturbance to them and to prevent damage from erosion.
- b. The use of controls and regulations to secure safety from floods, to prevent loss of life, property damage, and other losses and risk associated with flood conditions, to reduce the financial burdens imposed upon the Township through rescue and relief efforts occasioned by the occupancy or use of areas subject to periodic flooding, to protect individual and community riparian rights, and to preserve the location, character, and extent of natural and artificial water storage and retention areas.
- c. The enforcement of this Section and the coordination of the enforcement of appropriate and applicable local, state, and federal statutes and regulations.
- d. To allow the Township to adopt the Vermillion River and Cannon River Watershed Management Plans as the local watershed plans.

3. Exemptions

“Land Disturbing Activities” do not include:

- a. Minor land disturbance activities such as home gardens and individuals’ landscaping, repairs and maintenance work.
- b. Construction, installation, and maintenance of electric, telephone, or cable television utility lines or individual service connections to these utilities, except where 10,000 or more square feet of land or 100 or more lineal feet of shoreline is anticipated to be disturbed.
- c. Septic tank lines or drainage fields.
- d. Tilling, planting, or harvesting of agricultural, horticultural, or silvicultural crops, except where such practices have resulted in the deposition of sediment into a natural or artificial water storage or retention area, including public waters.
- e. Preparation of land for single family residences separately built, unless:
 - 1) in conjunction with multiple construction in a subdivision development, or
 - 2) 10,000 or more square feet of land or 100 or more lineal feet of shoreline is anticipated to be disturbed in such activities.

Commented [FN21]: Recommend removing since single family and or subdivisions will require review of a building permit

fc. Disturbed land areas for commercial or noncommercial uses of less than 10,000 square feet in size, except where any natural or artificial storage and retention areas or public waters are anticipated to be filled or drained.

gf. Installation of fence, sign, telephone or electric poles and other kinds of posts or poles.

hg. Emergency work to protect life, limb, or property, and emergency repairs, provided the land area disturbed is adequately shaped and stabilized when appropriate in accordance with the requirements of the Township and District.

4. ~~Grading activity performed on a pre-existing driveway, provided that the driveway services single-family residences separately built and not associated with multiple construction in a subdivision development.~~ Application for Permit to Conduct Land Disturbing Activity.

Commented [FN22]: Recommend getting a permit anyway

a. Any developer intending to conduct a land disturbing activity within the Township shall be responsible for first making application to the Town Board for a permit. All applications for a permit to conduct a land disturbing activity shall be made on forms provided by the Township and shall be accompanied by a resource management plan, a nonrefundable fee set by resolution of the Town Board, and a cash escrow to reimburse the Township for its out-of-pocket costs.

b. No developer shall conduct any land disturbing activity, unless exempted as described herein prior to receiving an approved permit from the Township.

bc. ~~Biosolids (semi-solid sewage wastewater product) shall not be permitted as fill or imported material within the Town unless treated to meet the MPCA regulatory requirements and is intended to be land applied as a soil conditioner or fertilizer.~~

5. Review of Application for Permit

Upon the Town Board's receipt of an application for permit from a developer, the Town Board shall review the application and resource management plan compatibility with this Section and other Township, county, state, and federal laws and regulations. If the Town Board determines that the proposed actions are in compliance, the Town Board shall approve the application permit.

6. Resource Management Plan

a. Plan Consistency. The management plan shall be consistent with the approved local watershed management plan of the areas where the land is located and shall not be contrary to the goals of any existing

land use controls. The resource management plan shall address the following criteria:

- 1) stabilization of exposed soil areas and soil stockpiles;
- 2) establishment of permanent vegetation;
- 3) prevention of sediment damages;
- 4) scheduling of erosion and sediment practices;
- 5) use of temporary sediment basins;
- 6) construction of slopes
- 7) control of stormwater discharge to minimize downstream erosion potential;
- 8) stabilization of waterways and outlets;
- 9) protection of storm sewer inlet from sediment;
- 10) working in or crossing water bodies;
- 11) underground utility construction;
- 12) construction access routes
- 13) disposal of temporary erosion and sediment control measures; and
- 14) maintenance of erosion and sediment control practices.

b. Plan Content. The resource management plan shall include:

- 1) location map with major streets and landmarks;
- 2) project description;
- 3) property boundary and lot lines;
- 4) utility lines;
- 5) existing contours;
- 6) existing drainage flow patterns and receiving water body(ies);
- 7) existing public waters and natural or artificial water storage and retention areas, and their individual 100-year flood elevations;
- 8) existing vegetation;
- 9) soils mapped;
- 10) critical erosion area(s);
- 11) final contours;
- 12) final drainage flow patterns;
- 13) final vegetation and permanent stabilization measures;
- 14) location and description of erosion and sediment control practices;
- 15) location and description of stormwater management control practices;
- 16) description of the maintenance of all erosion and sediment and stormwater management control practices.

c. Review of the Resource Management Plan. The Town Board may consult with the Dakota Soil and Water Conservation District in review of the resource management plan for determination of the

technical adequacy and effectiveness of the proposed plan. The Township shall notify the applicant of its decision after receipt of comments from the District.

- d. Approval of Resource Management Plan; Permit Issuance; Letter of Credit/Cash Deposit. If the Township determines that the resource management plan meets the requirements of this Ordinance, the Town Board shall issue a permit valid for a specified period of time that authorizes the land disturbing activity contingent upon the satisfactory implementation and completion of the approved resource management plan. The permit shall reference the specific approved plan or approved revision thereof and shall contain provisions deemed necessary to ensure the maintenance of any permanent or temporary practices.

Upon approval of the resource management plan, the Township shall require the developer to provide a letter of credit or cash deposit in favor of the Township sufficient to insure the satisfactory installation, completion, and maintenance of the measures and procedures as required in the approved resource management plan.

- e. Denial of Resource Management Plan. If the Township determines that the resource management plan does not meet the requirements of this Ordinance and approval is unwarranted, the Town Board shall deny the issuance of a permit to the applicant. The developer may seek to revise the proposed resource management plan and reapply for a permit. If the developer seeks to reapply for a permit, the proposed resource management plan must be changed so as to become compatible with the provisions of this Ordinance. After the developer has revised the resource management plan, the revised plan should be sent to the Town Board for review pursuant to subsection A.6.d., above. The revised plan should be accompanied by a request to reapply for a permit.
- f. Inspection. The Town Board, in cooperation with the Soil and Water Conservation District, shall inspect the developer's or landowner's progress of implementing the resource management plan. If the Town Board finds that insufficient progress or a non-compliant activity is occurring, the Town Board shall immediately notify the developer or landowner of the problem and demand compliance.
- g. Certification of Completion of Resource Management Plan. After all of the required measures and procedures as described in the resource management plan have been executed by the developer, the Town Board, in consultation with the Soil and Water Conservation District, shall conduct a review to ensure that all required measures and procedures have been properly executed by the developer.

- 1) If the Town Board determines that the resource management plan has been adequately executed, the Town Board shall issue a certification of completion certificate to the developer.
- 2) If the Town Board determines that the developer has not adequately executed the resource management plan, as approved, the Town Board shall require the developer to initiate and complete measures to rectify the deficiencies and to bring the overall project into compliance with the provisions of this Ordinance.

- h. Restoration Required. If the developer does not implement the resource management plan, the Town Board may order the developer to restore the development site, in whole or in part, to compliant conditions as they existed prior to the initiation of the land disturbing activity.
- i. Maintenance of Permanent Measures. The developer, his/her heirs or assigns, normally shall be responsible for the long-term maintenance of any permanent measure designed to control erosion, sedimentation, or stormwater runoff, or to protect natural or artificial water storage or retention areas, or to protect public waters, unless the Township has accepted an easement from the developer.

B. Stormwater Runoff Control.

1. Purpose

The purpose of this Section is to prevent or reduce, to the most practicable extent, stormwater runoff and its associated effects within the Township and to provide for the protection of natural and artificial water storage and retention areas and public waters.

Further, this Section clarifies the performance standards as they pertain to the permit system, including standards and specifications for conservation practices and planning activities, to minimize stormwater runoff damages in order to prevent degradation of water and soil resources.

2. Performance Standards

Proper stormwater management shall be considered and planned for within the Township as described in this Section. The Town Board shall refer to the following standards in all reviews, approvals, and permit issuance pursuant to all of the land use controls, including building codes, of the Township. The Town Board shall also refer to the following standards in all reviews of complaints received regarding alleged land disturbing activities:

- a. The following are general standards:

- 1) To the most practicable extent and so as not to degrade existing water quality, existing natural drainageways, public waters, natural or artificial water storage or retention areas, and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharge to any public waters of the state.
- 2) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- 3) When development density, topographic features, and soil vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversion, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference shall be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

b. The following are specific standards:

- 1) Measures shall be taken to maintain runoff rates generated within a subwatershed to pre-development levels. Landlocked depressions which presently do not typically overflow may be allowed a positive outlet, contingent on an approved drainage plan. The capacity of the outlet shall be limited to the runoff rate for the land tributary to this depression in an undeveloped condition.
- 2) Drainage plans for a conveyance system will be designed on a 10 year occurrence to a rainfall of 4.2 inches. Stormwater ponding will be based on a 6.0 inch rainfall over a 24-hour period (100-year occurrence).
- 3) Impervious surface coverage of lots must not exceed 25 percent of the lot area. Existing uses may expand if there is no increase in surface water runoff.
- 4) When construction facilities are used for stormwater management, they must be designed and installed consistent with watershed standards.
- 5) New constructed stormwater outfalls to any public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
- 6) All stormwater treatment ponds shall be designed and constructed in accordance with the criteria set by the 1983 National Urban Runoff Program (NURP).

C. Erosion Sedimentation Control.

1. Purpose

The purpose of this Section is to prevent or reduce, to the most practicable extent, erosion and sedimentation and their associated effects within the Township and to provide for the protection of natural and artificial water storage and retention areas and public waters. Further, this Section clarifies the performance standards as they pertain to the permit system, including standards and specifications for conservation practices and planning activities, to minimize erosion and sedimentation and their associated impacts in order to prevent degradation of water and soil resources.

2. Performance Standards

a. The following are general standards:

- 1) No land occupier or developer shall cause or conduct any land disturbing activity which causes excessive erosion or sedimentation or which results in damages to water or soil resources or off-site impacts.
- 2) All development shall conform to the natural limitations presented by the topography and soil types in order to minimize soil erosion and sedimentation.
- 3) Land disturbing activities shall only occur in increments of workable size such that adequate erosion and sediment controls can be provided throughout all phases of the development. The smallest practical area of land shall be exposed or otherwise disturbed at any one period of time.

b. The following are specific standards:

- 1) For agricultural land disturbing activities, sheet and rill erosion or wind erosion shall not exceed the soil loss tolerance for the affected soil series, and active gully erosion shall be prohibited.
- 2) For development land disturbing activities, active gully erosion and off-site impact shall be prohibited.
- 3) No land disturbing activity shall cause an increase in channel erosion in any watercourse, whether permanent or intermittent, at any time during or following development.
- 4) No land disturbing activity shall cause the creation of unstable slopes persisting after the completion of the development.
- 5) Permanent or temporary soil stabilization must be applied to disturbed areas (areas where vegetation has been removed or where cuts have been made), as soon as possible, not to exceed 15 days after a substation portion of rough grading has been conducted, unless an extension is granted by the Township.

Soil stabilization measures should be selected to be appropriate for the time of year, site conditions, and estimated duration of use. Soil stockpiles must be stabilized or protected with sediment trapping measures to prevent soil loss.

- 6) A permanent vegetative cover shall be established on disturbed areas not otherwise permanently stabilized.
- 7) Properties adjacent to the site of a land disturbance shall be protected from sediment deposition.
- 8) Sediment basins and traps, perimeter dikes (for diversion), sediment barriers (silt curtains or hay bales), and other measures intended to trap sediment on-site must be constructed as a first step in grading and be made functional before upslope land disturbance takes place. Earthen structures such as dams, dikes, and diversions must be seeded and mulched within 15 days of installation.
- 9) Stormwater runoff from drainage areas with more than five acres of disturbed area must pass through a sediment trapping basin or other suitable sediment trapping facility.
- 10) Cut and fill slopes must be designed and constructed in a manner which will minimize erosion. Slopes which are found to be eroding excessively within one year of construction must be provided with additional slope stabilizing measures until the problem is corrected.
- 11) Properties and waterways downstream from development sites shall be protected from erosion due to increases in volume, velocity, and peak flow rate of stormwater runoff.
- 12) All on-site stormwater conveyance channels shall be designed and constructed to withstand the expected velocity of flow from a 5-year frequency storm without erosion.
- 13) All storm sewer inlets which are made operable during construction shall be protected so that sediment-laden water will not enter the conveyance system without first being filtered or otherwise treated to remove sediment.
- 14) Construction vehicles should be kept out of watercourses to the extent possible.
- 15) The construction of non-exempt underground utility lines shall be subject to the following criteria:
 - a. No more than 5090 feet of trench are to be opened at one time unless approved by the Township;
 - b. Where consistent with safety and space considerations, excavated material is to be placed on the uphill side of trenches.
 - c. Trenched watering devices shall discharge in a manner which will not adversely affect flowing streams, drainage systems, or off-site property.
- 16) Wherever construction vehicle access routes intersect paved roads, provisions must be made to minimize the transport of sediment by runoff or vehicle tracking onto the paved surface.
- 17) All temporary erosion and sediment control measures shall be

disposed of within 30 days after final site stabilization is achieved or after the temporary measures are no longer needed, unless otherwise authorized by the Township.

18). All temporary and permanent erosion and sediment control practices must be maintained and repaired as needed to assure continued performance of their intended function.

D. Soil Loss Control.

1. Purpose

The purpose of this Section is to prevent the degradation of lands, lakes, streams, rivers, and wetlands. This policy applies to all land within the Township, including agricultural land, woodland, pasture, and developed lands.

2. Soil Loss Limit

Soil Loss Limit means the maximum amount of soil loss from water or wind erosion leaving the property where it is located, expressed in tons per acre per year, for lands in agricultural use, and expressed as cubic feet for non-agricultural lands. The soil loss limits for soils in agricultural use is two times the specified soil loss tolerances for each soil series as described in the Field Office Technical Guide. The official Dakota County Soil Survey is adopted by reference and declared to be a part of this policy.

a The soil loss limit for each soil on agricultural land is shown in the table as follows:

| Soil Series (symbol) | Soil Loss Tolerance T (tons/acre) | Soil Loss Tolerance for this Policy 2T (tons/acre) | Soil Series (symbol) | Soil Loss Tolerance (tons/acre) | Soil Loss Tolerance for this Policy 2T (tons/acre) |
|-------------------------|--|--|-------------------------|---------------------------------------|---|
| Aa | 5 | 10 | Hc | 4 | 8 |
| Ab | 5 | 10 | Hd | 5 | 10 |
| Ba | 5 | 10 | He | 5 | 10 |
| Bb | 5 | 10 | Ia | 5 | 10 |
| Bc | 5 | 10 | Ka | 4 | 10 |
| Bd | 4 | 8 | La | 4 | 8 |
| Be | 3 | 6 | Lb | 3 | 6 |
| Ca | 5 | 10 | Lc | 5 | 10 |
| Cb | 4 | 8 | Ld | 4 | 8 |
| Cc | 5 | 10 | Le | 5 | 10 |
| Cd | 2 | 4 | Lf | 5 | 10 |
| Da | 4 | 8 | Ma | 2 | 4 |
| Db | 4 | 8 | Oa | 5 | 10 |
| Dc | 5 | 10 | Pa | 2 | 4 |
| Dd | 5 | 10 | Pb | 2 | 4 |
| De | 5 | 10 | Ra | 5 | 10 |
| Df | 5 | 10 | Sa | 2 | 4 |
| Dg | 5 | 10 | Sb | 5 | 10 |
| Ea | 3 | 6 | Sc | 2 | 4 |
| Eb | 3 | 6 | Ta | 3 | 6 |
| Fa | 4 | 8 | Tb | 5 | 10 |
| Ga | 5 | 10 | Tc | 5 | 10 |
| Ha | 5 | 10 | Wa | 4 | 8 |
| Hb | 5 | 10 | Wb | 5 | 10 |
| | | | Wc | 5 | 10 |
| | | | Za | 5 | 10 |

- b. For non-agricultural land, excessive soil loss is defined as the accumulation of 100 cubic feet of soil onto an adjacent property.
- 3. Performance Standards
A person may not cause, conduct, contract for, or authorize an activity that causes excessive soil loss to an adjacent property. A land occupier shall:
 - a. prevent excessive soil loss and ensure that proper management and conservation practices are being applied to the land;
 - b. if using wooded or open land for pasture, ensure that proper management is used to prevent excessive soil loss due to overgrazing or cattle paths;
 - c. if a body of water, water source, or wetland is located within an agricultural use area, rural area, wooded or open land for pasture, or a wooded area used for timber harvest, ensure that proper management and conservation practices are being applied to the surrounding land.

E. Wetland Conservation.

1. Purpose

This Section is adopted to implement the Wetland Conservation Act of 1991, (Minn. Laws 1991 Chapter 354, as amended) (referred to hereafter in this subsection as “the Act”), and the accompanying rules of the Minnesota Board of Water and Soil Resources (Minn. Rules chapter 8420, as amended) (referred to hereafter in this subsection as “the Rules”).

2. Incorporation By Reference

This Section incorporates by reference the Act and the Rules. Terms used in this Section which are defined in the Act or the Rules have the meanings given there.

3. Scope

This Section regulates the draining and filling of wetlands and parts of wetlands within the Township. It is part of the official controls of the Township. Conflicts with other official controls must be resolved in favor of providing the most wetland protection.

4. Procedure

- a. Exemption and no-loss determinations under Minn. Rule Parts 8420.0415 and .0420 shall be made by the Town Board. The Town Board may seek the advice of the technical evaluation panel on questions of wetland delineation and type. The Town Board’s decision is final unless appealed to the Board of Adjustment and Appeals within 30 days.

b. Sequencing and replacement plan decisions

Sequencing and replacement plan decisions under Minn. Rule part 8420.0515-.0528 shall be made following the same procedures as for conditional use permits plus the additional notice and time requirements of part 8420.0255. If the amount of wetland to be drained or filled is less than one-tenth of an acre, the sequencing determination under Minn. Rule part 8420.0520 shall be made by the Town Board.

c. Monitoring

The Town Board shall assure that the replacement plan monitoring requirements of Minn. Rule parts 8420.0800-.0820 are fulfilled.

d. Wetland banking

Wetlands may be restored or created within the Township for purposes of deposit in the wetland bank in accordance with Minn. Rules parts 8420.0700-.0755. The Town Board is responsible for approving bank plans, certifying deposits, and monitoring of banked wetlands and enforcement under the rules.

e. Appeals

Decisions made under this Section may be appealed to the Board of Water and Soil Resources under Minn. Rule part 8420.0905, after administrative appeal rights under the official controls have been exhausted.

f. Variances

The Township may issue variances from the official controls of the Township so long as the variances do not vary requirements of the Act or the Rules.

g. Technical evaluation panel

The Township shall appoint a person to serve on the technical evaluation panel. The person must be a technical professional with expertise in water resources management. Decisions under this Section must not be made until after receiving the determination of the technical evaluation panel regarding wetland public values,

location, size and/or type if the decision-make, the landowner, or a member of the technical panel asks for such

determinations. This requirement does not apply to wetlands for which such data is included in an approved comprehensive wetland management plan per Minnesota Rules parts 8420.0240 and 8420.0830.

The Township shall consider recommendations, if any, made by the technical evaluation panel in making replacement plan decisions.

7.11 Subsurface Sewage Treatment Systems (SSTS)

A. Findings and purpose.

The Town Board finds that the location, design, installation, use or maintenance of subsurface sewage treatment systems (SSTS) may adversely affect the health, safety and welfare of the Castle Rock residents and the general public by the potential discharge of inadequately treated sewage into ground waters, ground surfaces or surface waters. In the interest of protecting the health, safety and welfare of the public, the Township has established the regulations herein.

B. Adoption of Water Pollution Control Act and Minnesota Rules.

Minnesota Statutes, §§ 115.55 and 115.56, comprising a part of the Minnesota Pollution Control Act, ~~as amended through 2009~~ and any amendments thereto established and adopted hereafter from time to time, and Minnesota Rules, Chapters 7080, 7081, and 7082, and any amendments, comprising a part of the Minnesota Pollution Control Agency Subsurface Sewage Treatment Systems Rules ~~as of 2009~~ and any amendments thereto established and adopted hereafter from time to time, are hereby adopted and incorporated herein by reference, except as otherwise provided herein. A copy of the provisions adopted herein shall be on file at the Castle Rock Town Hall. The provisions adopted herein shall be referred to hereinafter as "state requirements."

Commented [FN23]: More general to include future amendments

C. Definitions.

For purposes of this Section, the terms and phrases herein shall have the definitions given in Minnesota Statutes, § 115.55 and Minnesota Rules, Chapters 7080, 7081, and 7082, and any amendments thereto established and adopted hereafter.

D. License required; permit and plan.

1. License required. No person shall design, install, maintain, pump, repair, replace, extend or provide service to, or inspect an SSTS which is located within the township without a license first issued pursuant to Minnesota Statutes, § 115.56.

2. Permit and plan.

- a. Permit required. No person shall newly construct, replace, extend or repair a SSTS without first obtaining a permit therefor from the Township. Any new construction or replacement or repair of an SSTS or an upgrade required due to a bedroom addition shall be in compliance with the state requirements adopted herein. No Type IV, Type V or MSTS system or any SSTS system constructed in accordance with approved alternative standards shall serve or be utilized on a property unless an operating permit from the Township is in effect.
- b. Permit application. The application for a permit hereunder shall be in writing and submitted to the Township Clerk on a form as the Township shall provide, including the following information:
 - (i) A certified written site evaluation report in accordance with Minnesota Rules, [Chapters 7080 and 7081](#), as applicable and this Section; and
 - (ii) A certified design report, including drawings, calculations and summary of all the SSTS components.
 - (iii) For any lot created after January 23, 1996, a certified lot survey depicting the location of two soil treatment and dispersal areas on the lot that support the proposed SSTS.
 - (iv) For any newly constructed or replacement SSTS, a management plan that shall set forth the frequency of maintenance tasks including solids removal, not to exceed every 3 years, monitoring of maintenance and operation, requirement of owner to notify the Township when the SSTS is not in compliance or is abandoned, and requirement of owner to file with the Castle Rock Town Hall all maintenance records or reports.
- c. Issuance of permit. No permit shall be issued under this section unless the application establishes that the SSTS will be in compliance with the state requirements adopted herein. The permit application, along with all exhibits thereto, shall be reviewed and certified by a licensed compliance inspector authorized by the Township that the proposed system to be constructed or the replaced, repaired or upgraded system will meet the applicable state requirements. The construction, replacement, repair or upgrade of an SSTS may be initiated only upon the issuance of the permit. No newly constructed, repaired, replaced or upgraded SSTS may be used until a certificate of compliance is issued by a compliance inspector in accordance with this Section. No permit shall be issued under this section for the new construction or upgrade of any SSTS

to be located on any site less than one acre in area, with the exception of substandard lots consistent with the provisions of this Ordinance.

- d Bedroom addition building permit or variance. The Township shall not issue a building permit for an addition of a bedroom on property served by SSTS except upon receipt of a certificate of compliance. The Township may temporarily waive the certificate of compliance requirement for a building permit or variance for an application made during the period of November 1 through April 30, provided that an inspection of the system is performed by the following June 1 and a certificate of compliance is submitted to the Township by the following July 1.
- e Expiration of permit. A permit issued hereunder shall be valid for a period of 180 days. If no substantial work has commenced within that period, the permit shall expire.
- f Appeals of decisions. An applicant may appeal any requirement, decision or determination by the Township in connection with any provision of this Section pursuant to the procedures set forth in Section 8.03 of this Ordinance.
- g Permit fees. Any SSTS permit fee shall be as duly adopted by Town Board Resolution.
- h Certified site evaluation report. It shall be the responsibility of any site evaluator to utilize the proper professional tools, professional methods and judgments, and number of soil observations as required by the state requirements to verify that the site complies with Minnesota Rules, ~~Chapter 7080~~ for an individual SSTS or 7081 for a mid-sized SSTS standards and requirements for the primary (initial) and reserve (replacement) areas. The primary area shall consist of a minimum of 4,000 square feet per site, unless otherwise directed by the Township. The size of the reserve area shall be similar in size as the primary area. The site evaluator shall use the Dakota County Soil Survey and Munsell Soil Color Charts in accordance with Minnesota Rules, ~~Chapters 7080 and 7081~~, standards and requirements. A minimum of four soil observations and two percolation tests must be completed for each the primary area and the reserve area.
- i As-built record. For each newly constructed or replaced, extended, upgraded or repaired SSTS, an “as-built” record shall be properly completed and filed with the Township no later than ten days after completion of the new construction, replacement, upgrade or repair of the SSTS. An “as-built” record does not have to be filed with

the Township if the newly constructed or replaced, upgraded or repaired SSTS completely complies with the SSTS permit and plan under this subchapter.

- j. Management Plan. The owner and occupant of any property on which an SSTS is located shall comply with the management plan submitted with and approved by the Township in the permit application process for the SSTS on the property.
- k. Abandonment of SSTS. The owner and occupant of any property on which an SSTS is located shall notify the Township of any SSTS on the property that is no longer in use and shall close the SSTS in accordance with the state requirements within 90 days of the last day of use.
- l. Holding Tanks. Holding tanks may be used for the following applications only after it can be shown conclusively by the property owner that a SSTS permitted under this Section cannot be feasibly installed and is permitted under the issued permit:
 - 1) As a replacement for an existing failing SSTS;
 - 2) For an SSTS that poses an imminent threat to public health or safety; or
 - 3) For use with buildings with limited water use.

E. Inspections.

1. Compliance inspections required.

- a. An inspection to determine whether an SSTS is in compliance with the state requirements adopted herein shall be conducted whenever an SSTS permit is required under this Section. Any compliance inspection performed hereunder shall be conducted by a licensed inspector, whose license is independent of the permit applicant, the owner and/or installer of the SSTS to be inspected. The manner and timing of the compliance inspection shall be as required by the licensed inspector for purposes of new construction or replacement or upgrade of an SSTS.
- b. In the event a licensed inspector cannot perform an inspection at the SSTS site, the licensed inspector may conduct the compliance inspection through the use of video, electronic, photographic or other reliable evidence of compliance provided by the licensed installer, as approved by the licensed inspector.

2. Certificate of compliance and notice of noncompliance.
 - a. The licensed inspector shall submit a certificate of compliance or notice of noncompliance to the Township and the owner of the SSTS within 15 business days after the compliance inspection. The certificate of compliance or notice of noncompliance must include a certified statement from the licensed inspector that identifies the type of system inspected and indicates whether the SSTS is in compliance with the state requirements adopted herein. In the event the SSTS is not in compliance, the inspector shall specify the basis for noncompliance and whether the SSTS must be upgraded, replaced or its use discontinued. If the SSTS presents an imminent threat to public health or safety, the notice of noncompliance must contain a statement to this effect.
 - b. If a notice of non-compliance is submitted to the Township, a second compliance inspection shall be completed upon the upgrade, replacement, repair or discontinued use as required in the notice of noncompliance.
3. Bedroom addition building permit or variance. No building permit for the addition of a bedroom on property served by an SSTS shall be issued unless a compliance inspection is performed and a certificate of compliance is submitted to the Township.
4. Periodically saturated soil discrepancies or disputes. If a documented discrepancy arises as to the depth of the periodically saturated soil between licensed system professionals/ business or a licensed business and the Township Building Official for purposes of SSTS design or compliance, then the parties, including the property owner, shall participate in a dispute resolution method as set forth in Minn. Rules, [Chapter 7082](#).

F. Repair of noncomplying or failing systems.

1. Repair required. The owner or occupant of any property on which a noncomplying or failing SSTS is located shall upgrade, repair, replace or discontinue the use of the SSTS in accordance with the requirements of Minnesota Rules, [Chapter 7080 or 7081](#), as applicable, and the notice of noncompliance. Any noncomplying or failing SSTS from which discharge or sewage can be contained within the property the SSTS serves and is not an imminent threat to public health or safety shall be corrected within 300 days of the date of service of the notice of noncompliance.
2. Correction of system. Any noncomplying or failing SSTS from which discharged sewage cannot be contained within the property the SSTS serves or that poses an imminent threat to the public health and safety, shall be corrected within 30 days of service of the notice of noncompliance unless weather conditions prevent correction within 30 days in which case

the owner or occupant shall implement temporary corrective measures (such as regular pumping of the SSTS) and complete permanent corrective measures as soon as physically feasible, but in no case later than 300 days immediately following the date of service of the notice of non-compliance, whichever is longer.

3. Second inspection. Upon the repair, upgrade, replacement or discontinuance of the use of the SSTS as directed in the notice of non-compliance, a second compliance inspection must be completed within 30 days of the repair, upgrade, replacement or discontinuance and a certificate of compliance must be filed with the Township within ten days of the inspection. If the owner or occupant fails to comply with this section, the use of the SSTS must be discontinued immediately.

G. Minimum soil treatment area.

Any property or lot platted after January 23, 1996, and served by an SSTS shall have a minimum of one additional soil treatment area which can support a standard soil treatment system.

H. Application of other rules and regulations.

In addition to all provisions of this Section, all federal, state and local statutes, rules and regulations governing the discharge or disposal of sewage or the construction, repair or replacement of subsurface sewage treatment system shall apply with which all persons shall comply within the Township. Any conflict between the provisions of this Section and any other state or local statute, regulation or ordinance, shall be resolved in favor of the more restrictive provision.

I. Required septic tank sizing, system and tank regulations.

1. Any septic tank for a new or replacement septic tank for any SSTS shall be sized 50% greater than the minimum size requirement provided in Minnesota Rules, Chapter 7080 or 7081, as applicable. In the event that a basement toilet which exists or could exist, would require a pump, the septic tank capacity shall be sized for both the potential basement toilet and the basement raw sewage pump in accordance with Minnesota Rules, Chapter 7080 or 7081, as applicable.
2. *DETERMINATION OF HYDRAULIC LOADING RATE AND SSTS SIZING.* Table IX from Minn. R. 7080.2150, subp. 3(E) entitled *Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detail Soil Descriptions* and Table IXa from Minn. R. ch. 7080.2150, subp. 3(E) entitled *Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining*

Mound Absorption Areas Using Percolation Tests and herein adopted by reference shall both be used to size SSTS infiltration areas using the larger sizing factor of the two for SSTS design.

3. All owners of new or replacement SSTS that are considered to be Class V injection wells as defined in the Code of Federal Regulations, title 40, part 144, are required to submit SSTS inventory information to the United States Environmental Protection Agency and the MPCA. Owners are also required to identify all Class V injection wells in property transfer disclosures.
4. All new and replacement pump tanks shall have a capacity of not less than 1,000 gallons.
5. The addition of washed mound sand to a sand or coarse sand profile toward required vertical separation for a septic design classifies that system as a Standard Type I system, identical to a Standard Type I mound system classification.
6. Clean-out ends of pressure distribution pipes shall be below grade and enclosed in a protective box to allow access for maintenance. Placement of clean-out pipes must be measured from multiple benchmarks and detailed on the As-Built Record drawing.

J. Variance to technical standards.

1. A property owner may request a variance from the provisions in this Section upon filing an application for variance in accordance herein with the Township. The variance application must provide the following:
 - a. The specific provision in the rule or rules from which the variance is requested;
 - b. The reasons why compliance with the rule(s) cannot be met;
 - c. A detail description of the circumstances that prevent compliance with the rule and why the circumstances make compliance unreasonable, impractical or not feasible;
 - d. The alternative measures that will be taken to ensure a comparable degree of compliance with the intention of the applicable chapter;
 - e. The length of time for which the variance is requested; and
 - f. Other relevant information requested by the Township as necessary to properly evaluate the variance request.

2. The Township may grant a variance only upon a finding that by reason of exceptional circumstances, which were not due to or created by the applicant, the strict enforcement or strict conformity with this chapter would be unreasonable, impractical, or not feasible under the circumstances. The Township may permit a variance so long as it is in harmony with the general purpose of this chapter and Minnesota Rules, Chapters 7080 and 7081 and the intent of applicable state requirements.

K. Permit suspension or revocation.

Upon any violation of any term or condition of a permit issued under this Section or any violation of any state requirement adopted herein in connection with the construction, replacement, expansion or repair of a SSTS, the Township Building Official may suspend or revoke the permit and all work or operation thereunder shall cease. The owner and licensed permit holder shall bring the SSTS into compliance with this Section as directed by the Township Building Official. If compliance is not met within the timeframe set by the Township Building Official, the permit shall be deemed automatically revoked.

**7.12—Communication Towers and Antennae and Wind Energy Conversion Systems
(Wind turbines)**

7.12

A. Conditional Use Permit Required.

A conditional use permit is required for the construction or erection of any communications tower or wind energy conversion system. Co-located antennae on an existing tower for which a conditional use permit is issued is exempt from the CUP process, but require Planning Commission and Town Board approval. This section does not apply to any windmill that is less than 25 feet in height, and is for non-functional, ornamental purposes.

B. Co-location on Existing Structures.

New communication towers or antennae must be co-located on existing structures in the Township, unless it can be documented that it is impractical to co-locate on an existing structure because of the technical performance, system coverage, or system capacity of an existing structure not being able to support co-location from a structural engineering standpoint, or the lease rate of an existing structure is not "Rate Reasonable." Rate Reasonable shall mean that the co-location lease rate is not more than one hundred fifty (150) percent of the co-location lease rate for towers within ten miles for which such lease rate information can be obtained. The determination that co-location on an existing structure is not practical because of technical performance, system coverage, or system capacity shall be supported by findings from a qualified engineer.

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C. Co-location Requirements for New Structures.

New towers shall be designed and constructed to permit the future co-location of other commercial wireless telecommunications services, according to the following criteria:

| <u>Height of Structure</u> | <u>Number of Co-location Required</u> |
|----------------------------|---------------------------------------|
| Less than 120' | No co-location required |
| Between 120' and 160' | 1 additional user accommodated |
| Greater than 160' | 2 additional users accommodated |

In the event a tower must be constructed in excess of one hundred sixty (160) feet in height, the owner of the tower shall reserve the right of co-location for one (1) of the two (2) additional users to the Township for the use by the Township for government communication services including but not limited to uses such as fire, police, or rescue. In satisfying co-location requirements, the owner of the tower must provide adequate access to the tower site and space within the owned or leased area to accommodate co-location users' equipment needs. Nothing in these regulations shall prevent the owner of the tower from requiring a remuneration from a co-location user, excepting the co-location use reserved for the Township, and provided such remuneration is Rate Reasonable. The owner of the tower may also establish reasonable technical requirements for co-location to protect the owner's investment and guarantee effective telecommunications service.

The Township may utilize its reserved right for co-location in any manner consistent with the safe and efficient operation of communications services. The owner of the tower shall have the authority to determine whether the Township's use of the tower is compatible with commercial wireless telecommunications services users on the tower. The owner of the tower shall have the authority to review all plans for co-location uses and require reasonable modifications for such plans to ensure safe and efficient operation of the communications services and to protect the owner's investment.

D. Tower Height and Antenna Design.

No tower shall exceed 200 feet in height. Towers and antennae shall be located and designed to blend into the surrounding environment to the maximum extent possible. Towers shall be of a mono-pole design unless it is determined that an alternative design would be appropriate for the particular site or circumstances. All towers shall be painted in a color best determined by the Township to blend into the particular environment.

E. Tower Setbacks.

All towers shall be set back from structures, rights-of-way, and property lines at a distance equal to the height of the towers and antennae. The setbacks may be reduced to a distance agreed upon by the Township, if the tower applicant furnishes a registered engineer's certification that the tower is designed to collapse or fall within a distance or zone shorter than the total tower height. The Township may waive or modify setback requirements for antennae proposed to be co-located on existing towers or structures.

F. Lighting.

Towers shall not be illuminated unless required by a state or federal agency.

G. Security.

The site area for new or modified commercial wireless telecommunications services towers shall be totally fenced in to discourage access by unauthorized persons. The Township shall review and approve or modify all plans for fencing and security measures.

H. Accessory Structures.

The applicant shall submit site plans, elevations, and construction details for all towers, antennae, and accessory structures to be located on a site. All equipment must be enclosed within a building. The Township may require that any accessory structures be designed compatible with surrounding structures or natural environment and may require that landscaping materials be provided to screen accessory structures or equipment. Co-location users must construct buildings compatible with existing buildings on the premises.

I. Signs.

Signs, other than warning signs, equipment labels, emergency information, or owner identification, are prohibited on any towers, antennae, or accessory structures or equipment. No permitted signs shall exceed three (3) square feet in area.

J. Interference.

No wireless telecommunications service shall be permitted that causes any interference with commercial or private use and enjoyment of other legally operating telecommunications devices, including but not limited to radios, televisions, personal computers, telephones, personal communications devices, garage door openers, security systems, and other electronic equipment and devices. An applicant must furnish Minnesota registered engineer's certification that no such interference will occur or identify what interference may occur and how the applicant will mitigate any potential interference that may occur.

K. Construction Requirements.

All wireless telecommunications towers, antennae, and accessory uses shall be designed and constructed in accordance with all provisions of this Ordinance and all applicable state and federal codes. All plans must be certified by an engineer registered in the State of Minnesota.

L. 7.13 Wind Energy Conversion System.

A. A conditional use permit is required for the construction or erection of any wind energy conversion system. Wind Energy Conversion System (“WEC”) shall comply with all the requirements set forth herein for communication towers, as applicable and the following:

1. Minimize adverse visual affects through careful design, siting, and screening;
2. The tower for the wind energy conversion system shall meet all requirements set forth for wireless communication towers in P (institutional) zoning districts provided in this chapter, except that the tower shall be set back a minimum of one-and-one-half times the fall zone from right-of-way lines, and two times the fall zone from any structure or parking lot on neighboring property;
3. All systems shall have an automatic speed control device as part of the design;
4. All systems shall comply with the Minnesota Pollution Control Agency (MPCA) Section (NPC 1 and NPC 2), as amended;
5. All systems shall comply with applicable Federal Aviation Administration (FAA) regulations;
6. The WEC shall be operated and maintained in a condition which will not cause unreasonable noise emissions levels; and
7. The WEC electrical equipment and connections shall adhere to all state and local and public utility rules, regulations and standards.

M.L. Abandonment.

Any tower and antennae or wind energy conversion system not used for a period of twelve (12) consecutive months shall be considered abandoned and shall be removed. Any tower antennae or WEC that is not removed within ninety (90) days of written notice by the Township after abandonment, the Township shall have the right to remove the towers and antennae and assess the property. The applicant must furnish a copy of the relevant portions of an executed lease, which

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identifies the applicant's obligation to remove abandoned or unused WEC or towers and antennae, prior to issuance of a conditional use permit to erect a tower.

N.M. Other Requirements

The Township may require additional information from the applicant and impose additional standards and regulations in approving plans for wireless telecommunications services to ensure and protect the public health, safety, and welfare.

7.13 7.14 Signs

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A.N. Intent.

The regulations established in this chapter are designed to protect property values, create a more attractive environment, 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 rights-of-way.

B.O. Permit Required.

A permit shall be required for approval by the Township prior to installation of any sign that is required to conform to the provisions of this Ordinance. Permit fees shall be established by resolution of the Town Board.

C.P. Public Right-of-Way.

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

D.Q. On-Site Advertising Signs.

All new signs larger than 20 square feet in area shall require a conditional use permit. No advertising sign may exceed 80 square feet or 20 feet in height.

E.R. Off-Site Signs.

Off-site signs shall be allowed in all districts as conditional uses, but are limited to non-commercial messages or directional information and may not exceed 12 square feet in area.

F.S. Electronic Message Signs.

Electronic message signs in excess of 12 square feet are prohibited, except for display of time and temperature.

G.T. Poorly-Maintained Signs.

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

H.U. 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.

I.V. Announcement Signs.

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

1. A sign advertising only the sale, rental, or lease of the building or premises on which it is maintained.
2. An announcement sign or bulletin board for the use of a public, charitable, or religious institution occupying the premises.
3. An advertising sign in connection with a lawfully maintained nonconforming use.
4. Political signs.

J.W. Portable Signs/Lighting.

Portable signs and signs illuminated by flashing, intermittent rotating, or moving light or lights are prohibited, except for temporary uses, which require conditional use permits. 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 at any portion of adjoining properties or streets.

K.X. Nonconforming Signs.

Signs erected prior to the date of enactment of this Ordinance which do not conform with the sign regulations contained herein shall not be expanded, modified, or changed in any way except in conformity with these sign regulations.

L.Y. General.

No sign may exceed twenty feet in height or eighty square feet in area. Wall signs may not exceed eighty square feet or twenty percent of the wall area, whichever is less. Roof signs are prohibited. One freestanding sign is permitted for each authorized non-residential use. Small directional, advisory, or information signs (less than three square feet) are permitted in addition to freestanding signs.

7.14 7.15 Animal Feedlots and Manure Handling

A.Z. 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 Castle Rock Township. Livestock, poultry, dairy products, and other agricultural commodities are produced in Castle Rock Township. The continued viability of the agricultural community and production of these products is essential to the economic wellbeing of Castle Rock Township 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 Castle Rock Township

The purpose of this Section is to establish an application process for permitting animal feedlots, regulating location, development, operation, and expansion of animal feedlots, promoting best farm management practices, and ensuring land use compatibility.

B-AA. Administration.

1. Permit Required

Animal feedlots shall be registered and managed in accordance with Minnesota Rule Chapter 7020, the requirements of Dakota County, and in accordance with this Ordinance.

Any person owning or operating a proposed or existing animal feedlot having ten (10) or more animal units shall make application to the Township in conformance with the requirements of Section VIII of this Ordinance, if any of the following conditions exist:

- a. A new animal feedlot is proposed;
- b. A change in operation of an existing feedlot is proposed. A change in operation includes:
 - 1) An increase beyond the permitted maximum number of animal units.
 - 2) An increase in the number of animal units that are confined at an unpermitted lot;
 - 3) A change in the construction or operation of an animal feedlot

Commented [FN24]: This change was in response to the "Harry Notes and Twp Issues List" indicating Dakota County does not handle feedlots anymore. State handles and is not involved in feedlots less than 50 AU. The MPCA oversees larger feedlots in delegated counties and all feedlots in non-delegated counties. Dakota County is a non-delegated county. Source: <https://www.pca.state.mn.us/business-with-us/feedlots> and <https://www.pca.state.mn.us/sites/default/files/wq-fl-12.pdf>

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that would affect the storage, handling, utilization, or disposal of animal manure, including, but not limited to, the following:

- a. Ownership of an existing animal feedlot is changed;
- b. A National Pollutant Discharge Elimination System (NPDES) permit application is required under state or federal rules or regulations;
- c. An inspection by authorized MPCA ~~or County~~ staff determines that the animal feedlot creates or maintains a potential pollution hazard.

2. Permit Application

A permit application shall include the following:

- a. Owner's and operator's names and addresses;
- b. Proposed location, including quarter section, township, and range;
- c. Animal types and maximum number of animals of each type which will be confined at the feedlot;
- d. A sketch identifying dimensions of the feedlot, all setbacks required in subsection C., below, and homes, buildings, existing manure storage areas and/or structures, lakes, ponds, water courses, wetlands, dry-runs, tile inlets, sink holes, roads, and wells located within the required setback areas;
- e. Plans for buildings or structures as required by this Ordinance.

3. Township Action

Action by Castle Rock Township on an Animal Feedlot application is conditional upon the following additional requirements being met by the applicant:

- a. Receipt of a Feedlot Permit from the ~~Dakota~~ [County MPCA](#) Feedlot [Staff Officer](#);
- b. Approval of a Spill Response Plan by the [County Feedlot Officer](#) [MPCA feedlot staff](#);
- c. Approval of a Nutrient Management Plan by the [County Feedlot Officer](#) [MPCA feedlot staff](#), in consultation with the Dakota County Soil and Water Conservation District.

4. Certification

Any operator of an animal feedlot that has received a permit from the Township or any individual or business that stores, spreads, or processes animal manure in the Township must be certified by the [Dakota County Feedlot Officer](#) [MPCA feedlot](#)

staff for an initial period of five (5) years.

Animal feedlot owners and individuals or businesses that store, spread, or process animal manure in the Township shall be re-certified every five (5) years. Re-certification shall be received upon completion of appropriate training under the supervision and provided by the University of Minnesota Extension Services, Dakota County.

C.BB. Acreage and Setback Requirements.

1. Minimum Area

Minimum land requirements for an animal feedlot will be based upon the minimum amount of land required to meet the setback requirements in subsection C.2., below, and the requirements for spreading of manure as identified in the Nutrient Management Plan.

2. Minimum Setbacks

The following setbacks shall apply to all new Animal Feedlots and Manure Storage Facilities:

a. From residence not owned by feedlot owner, family or employee:

| <u>Animal Units</u> | <u>Minimum Distance</u> |
|---------------------|-------------------------|
| 1-50 | 100 feet |
| 51-150 | 500 feet |
| 151-750 | 1,000 feet |
| 751 or more | 1/4 mile |

b. From public parks: 1/4 mile

3. 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.CC. Land Application of Manure.

1. Application Rates

Manure application rates for new or expanded feedlots will be based upon requirements identified in the Nutrient Management Plan.

2. Injection and Incorporation

Manure from an Animal Waste Storage Facility or human bio-solid facility must be injected or incorporated into the soil within twenty-four (24) hours of spreading.

E.DD. Manure Storage and Transportation.

1. Compliance with State and Local Standards

All animal manure shall be stored and transported in conformance with State of Minnesota statutes and rules, and county and township ordinances.

2. Potential Pollution Hazard Prohibited

No manure storage facility shall be constructed, located, or operated so as to create or maintain a potential pollution hazard. A certificate of compliance or a permit must be issued by the [County Feedlot Officer](#)[MPCA feedlot staff](#).

3. Vehicles, spreaders

All vehicles used to transport animal manure on county, state, interstate, township, or city roads shall be leakproof. Manure spreaders with endgates shall be in compliance with this provision provided the endgates work effectively to restrict leakage and the manure spreader is leakproof.

4. Storage Capacity for New Animal Waste Storage Facility Storage capacity for animal manure from new Animal Waste Storage Facilities shall not be less than seven (7) months, subject to the review and approval by the [County Feedlot Officer](#)[MPCA feedlot staff](#).

5. Engineer Approval of Plans

All plans for an animal manure storage facility must be prepared and approved by an engineer licensed by the State of Minnesota. A report from an engineer licensed by the State of Minnesota must be submitted to and approved by the [Dakota County Feedlot Officer](#)[MPCA feedlot staff](#) or his or her designee prior to use of the structure for manure storage.

6. Monitoring of Storage Pit

The owner of a storage pit shall conduct a test annually of the water within the perimeter tile of the storage facility, with analysis completed by a certified testing laboratory, and maintain a log of the results to be provided at the time of certification as identified in this Section.

7. Abandoned Manure Storage Facilities

All animal waste must be removed from an animal waste storage facility that has not been operational for one year.

8. Emergency Notification

In the event of a leak, spill, or other emergency related to the handling of animal manure that presents a potential opportunity for pollution of a natural resource or inconvenience to the public, the owner of the animal feedlot or individual or business responsible for transport or spreading of animal manure shall notify the Minnesota Duty Officer and the [Dakota County Feedlot Office](#) or [MPCA feedlot staff](#) or his or her agent to review alternative solutions and to receive authorization to take appropriate actions to remedy the situation. The operator or owner of a feedlot, or the individual or business responsible for transport or spreading of animal manure, is responsible for costs associated with clean-up and other remedies related to the emergency.

F-EE. Other Regulations.

Compliance with all other applicable local, state, and federal standards shall be required, including State feedlot regulations (Minn. Rules Chapter 7020) and Shoreland Development (Minn. Statutes, Section 103F.201).

7.16 Uses Requiring Public Improvements

Any new or intensified use authorized by this Ordinance or permitted by the Township that requires private or public improvements, including but not limited to driveways, turn lanes, bypass lanes, public streets, signage, signalization, storm sewers, stormwater ponds, and similar improvements, shall be the sole responsibility of the party seeking the new or intensified use.

7.17 Commercial/Industrial Development Standards

In addition to other applicable requirements and provisions of this Ordinance, all new, intensified, or modified commercial, industrial, agricultural service, public,

institutional, or other non-residential and other non-agricultural uses shall be subject to the following minimum performance standards:

G.FF. Site plan review requirements in Section 5.05.

H.GG. Water and soil resource management requirements in Section 7.10.

I.HH. Exterior building materials shall not include unpainted metal surfaces or untextured concrete block. The exterior walls of all building facing public roads, residential land uses, or public/institutional uses, and not set back more than 500 feet from such roads or land uses, shall include a minimum 25% of the wall area constructed with face brick, natural stone, textured stone, textured block, stucco, wood, or similar decorative treatment.

J.II. Rooftop mechanical systems shall be appropriately screened from public view.

K.JJ. Outside storage shall be appropriately screened from view from public roads, residential land uses, or public/institutional land uses.

L.KK. Solid waste and authorized hazardous materials shall be kept in containers specifically designed for such use and contained completely within buildings or approved enclosures.

M.LL. Yard and security lighting on any site shall be directed away from public roads and adjacent properties and include shrouds to prevent off-site glare, including upward glare.

N.MM. Approved accessory structures shall be compatible with principal structure in architectural style and appearance.

O.NN. Security and decorative fencing may be located on the property line on the side and rear yards and at the front building setback line. No fence shall exceed eight (8) feet in height, unless authorized by conditional use permit. No fence shall be designed, constructed, or located in manner which obstructs the view of motorists.

P.OO. Public streets, private streets, driveways, parking, loading and maneuvering areas must be designed for all-weather conditions and minimum 9-ton weight usage pertinent to the projected average daily traffic (ADT) and appropriate soil factor (SF) and must be designed and constructed according to the Castle Rock Township recommended design standards and as approved by the Township engineer.

Q.PP. All required improvements including, but not limited to, site grading, erosion control, roads, and stormwater ponding must be constructed according to Township approved plans before building permits will be issued. Community

well and fire protection systems may be required to be designed and constructed within developments, depending on the intensity and nature of the uses.

R.QQ. A cash escrow, letter of credit, performance bond, or other form of surety approved by the Township Attorney shall be required to guarantee compliance of plans approved by the Township and compliance with the provisions of this Ordinance.

S.RR. Public streets, private streets, driveways, parking, loading and maneuvering areas must be designed for all-weather conditions and minimum 9-ton weight usage pertinent to the projected average daily traffic (ADT) and appropriate soil factor (SF) and must be designed and constructed according to the Castle Rock Township recommended design standards and as approved by the Township engineer.

T.SS. All required improvements including, but not limited to, site grading, erosion control, roads, and stormwater ponding must be constructed according to Township approved plans before building permits will be issued. Community well and fire protection systems may be required to be designed and constructed within developments, depending on the intensity and nature of the uses.

U.TT. A cash escrow, letter of credit, performance bond, or other form of surety approved by the Township Attorney shall be required to guarantee compliance of plans approved by the Township and compliance with the provisions of this Ordinance.

7.18 Mineral Extraction

V.UU. Purpose.

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

1. Identify areas in the community where mineral extraction is most appropriate and minimizes conflicts with commercial agricultural, residential, and other land uses.
2. Establish permitting requirements, environmental review procedures and performance standards to regulate mineral extraction.
3. Establish standards which distinguish between longer term and shorter term mineral extraction activities.

Commented [FN25]: Changes are consistent with Model Mining Ordinance from Dakota County. Model Mining Ordinance includes the reclamation section.

4. Establish standards which prevent or minimize environmental and aesthetic impacts on extracted properties, adjacent properties, and the community as a whole.
5. Establish standards and financial guarantees that restore extracted land to condition compatible with adjacent properties and suitable for future uses which are compatible with the Castle Rock Township Comprehensive Plan.

W. — Definitions. The following terms shall have the meaning as stated:

Accessory Uses: Accessory uses of a mineral extraction facility may include the manufacture, storage and sale of products made from minerals on the premise and storage and sale of minerals and topsoil not extracted on the premises.

Board: The Board of Supervisors of Castle Rock Township.

Commission: The Planning Commission of Castle Rock Township. Comprehensive Plan: The Castle Rock Township Comprehensive Plan.

Dust: Airborne mineral particulate matter.

Excavation: The movement or removal of soil and minerals

Mineral: Sand, gravel, rock, clay and similar higher density non metallic natural minerals.

Mineral Extraction: The removal of sand, gravel, rock, clay and other minerals from the ground.

Mineral Extraction Facility: Any area that is being used for removal, stockpiling, storage, and processing of sand, gravel, topsoil, clay and other minerals.

Mineral Extraction Permit: The permit required for mineral extraction facilities which may operate for several years.

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, storage and sale of minerals from the facility.

Processing: Any activity which may include the crushing, washing, stockpiling, compounding, mixing, or treatment of sand, gravels, rocks or similar mineral products into consumable products such as construction grade sand, gravel, concrete, asphalt, and other similar products.

Rehabilitation: To renew land to self sustaining long term use which is compatible with contiguous land uses, present and future, in accordance with the standards set forth in this Ordinance.

Seasonal Extraction Facility: Any area where mineral extraction is permitted on a temporary, seasonal basis, not to exceed two years in operation.

Seasonal Extraction Permit: The permit required for seasonal extraction facilities which may operate for one or two years, with permit renewal required each year.

Soil: A natural three dimensional body of the earth's surface.

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.

Township: The Township of Castle Rock, Dakota County, Minnesota.

X.VV. Permit Required.

It is unlawful for any person, firm, or corporation to extract or process minerals in the Township without obtaining a permit required in this Section. Mineral extraction shall only be allowed in Sections One and Two, Township 113, Range 19 Dakota County MN. Mineral extraction shall only be allowed in that part of the Township zoned Mineral Extraction District.

Y. Exceptions.

A mineral extraction permit shall not be required for any of the following:

1. Excavation for a foundation, cellar or basement of a building if a building permit has been issued.
2. Excavation 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.
3. Curb cuts, utility hook ups or street openings for which another permit has been issued by the Township.
4. Excavation less than one thousand (1000) square feet in area or one foot in depth.
5. Excavation or grading for agricultural purposes.

6. Other activities in which a permit has been issued site grading is allowed and mineral extraction is clearly an incidental activity.

7. Sod Harvesting:

Z. Mineral Extraction Permit Application Requirements:

1. Application Form:

An application for a mineral extraction permit shall be submitted to the Township on a form supplied by the Township. Information shall include but not be limited to the following:

- a) Name, address, phone number, contact person for the operator.
- b) Name, address, phone number of the landowner.
- c) Acreage and complete legal description of the property on which the facility will be located, including all contiguous property owned by the landowners.
- d) Acreage and complete legal description of the property on which the mineral extraction permit will apply.
- e) Type and quantity of material to be extracted
- f) Hours of operation of the facility.
- g) Timeframe to operate the facility.
- h) A description of all vehicles and equipment to be used by the operator in the operation of the facility.
- i) A description of the maximum number and average peak daily number of vehicles accessing the facility, including a breakdown of operator owned and non operator owned vehicles.
- j) A description of the haul routes within the Township to be used in the operation of the facility.

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 mile.
- b) A description of land use designations in the Comprehensive Plan and zoning classifications of the subject property and all properties within one mile.
- c) A description of the soil, vegetation, mineral content and current topography 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 by a registered engineer licensed in the State of Minnesota. Additional soil borings may be required by the Township Engineer for the subject site and any future expansion.
- d) A general description of surface waters, existing drainage patterns and groundwater conditions within one mile of the subject property.
- e) A general description of any wells or private sewer systems of record, pipelines, power lines and other utilities or appurtenances on the subject property and adjacent properties.
- f) A general description of the depth, quantity, quality and intended uses of the mineral deposits on the subject property.
- g) Current topography of the subject property, illustrated by contours not exceeding two foot intervals.
- h) Proposed topography of the subject property after mineral extraction has been completed, illustrated by contours not exceeding two foot intervals.
- i) A phasing plan which illustrates the sequencing of mineral extraction, the locations of processing equipment, mineral stockpiles, staging areas, accessory uses and access routes.
- j) Copies of MPCA application documents, EAW documents, EIS documents if required, and operating permits.
- k) A description of the site hydrology and drainage characteristics during extraction for each phase. Identify any locations where drainage of any disturbed areas will not be

controlled on the subject property and plans to control erosion, sedimentation and water quality of the runoff. Applicant must supply the Township a letter from the County Soil and Water District Manager approving this description.

- l) A description of the potential impacts to adjacent properties resulting from mineral extraction and off site transportation, including but not limited to noise, dust, surface water runoff, groundwater contamination, traffic and aesthetics.
- m) A description of the plan to mitigate potential impacts resulting from mineral extraction.
- n) A description of site screening, landscaping and security fencing.
- o) A description of site rehabilitation in each phase of operation and upon completion of mineral extraction on the subject property.
- p) A description of the method in 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.

AA. Permit Procedure: Interim Use Permit.

Mineral extraction permits in Mineral Extraction District shall be considered and processed by the Township only as interim use permits. The procedures are defined in the Castle Rock Township Zoning Ordinance.

1. Applicants are encouraged to attend a regular Planning Commission or Board of Supervisors meeting to obtain an interpretation of the compatibility of the proposed mineral extraction activity with the Comprehensive Plan and Zoning Ordinance.
2. Applicants are encouraged to appear before the Planning Commission to make a preliminary presentation on the conceptual nature of the proposed extraction activity.
3. A copy of the application and required supporting information shall be forwarded to the Township or its designee. Within ten (10) business days of receipt of the information a determination of the completeness of the application and supporting documentation will be made. If the application is complete, the environmental review process will begin. If the application is incomplete, the Township will identify the information which must be submitted before formal review may commence.
4. Any application which is inconsistent with the Comprehensive Plan, will be denied. The applicant has the right to submit an application to

the Township to amend the Comprehensive Plan, according to procedures established by the Township.

5. Upon completion of the environmental review process, the Township will process the mineral extraction permit. The Township 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.
6. 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.
7. After the public hearing, the Planning Commission shall make findings on the permit application and submit recommendations to the Town Board.
8. If the Planning Commission and Town Board cannot act upon the permit application within sixty (60) days of the receipt of all required information and completion of the environmental review process, the Township shall notify the applicant in writing of the delay and extension of review. The Planning Commission and Town Board must act upon the application within one hundred twenty (120) days of the date the final application was submitted, unless an extension of time is granted by the applicant.
9. The Town Board shall approve the permit application, deny the permit application or approve the permit application with modification.
10. 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.

BB. Mineral Extraction Performance Standards.

The following performance standards apply to all mineral extraction facilities in the Township:

1. Hours of Operation. Mineral extraction facilities shall operate only between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday and 7:00 a.m. to 12:00 p.m. on Saturday.
 - a.) Exceptions to the hours of operation, such as government agency contracts and other evening work, must be approved by the Town Board.
2. Fencing. The Board shall require fencing, signs and barriers around artificial ponding areas, wetlands and steep sloped excavation areas.

3. ~~Access. All mineral extraction facilities shall have direct access to a 9-ton or greater paved road, which meets current design standards and weight classification of the jurisdiction responsible for the road.~~
4. ~~Haul Routes. All trucks traveling to or from the mineral extraction facility shall utilize 9-ton or greater paved roads. Operators may be granted a special permit to utilize roadways temporarily posted under 9-ton, provided adequate surety is guaranteed to cover the costs of repairing any damage to roadways.~~
5. ~~Roadway Dust Control. Operators will be responsible for providing water trucks to control dust on all gravel roads utilized by trucks hauling to or from a mineral extraction facility. Unless waived by the Town Board in lieu of other remedies, watering roadways will be required when conditions warrant it and the number of one way truck trips from a particular mineral extraction facility exceeds three (3) per hour.~~
6. ~~Mineral Extraction Facility Dust Control. The Township shall require watering in a facility when it is determined that airborne dust from extraction areas, processing activities, stockpiles or internal roadways creates a public nuisance. Other remedies to dust control may include berthing, landscaping and enclosures for processing equipment.~~
7. ~~Noise. Maximum noise levels at the facility will be consistent with the most current standards established by the Minnesota Pollution Control Agency.~~
8. ~~Vibration. Operators shall use all practical means to eliminate adverse impacts of vibration from equipment on adjacent properties.~~
9. ~~Air Quality/Water Quality. All activities on the subject property will be conducted in a manner consistent with the Minnesota Pollution Control Agency's operating permits. No mining shall occur within ten (10) feet of the normal groundwater elevation.~~
10. ~~Accessory Uses. Accessory uses, such as concrete or asphalt production or stockpiling and sale of materials not extracted on the subject property may be considered for approval by the Township.~~
11. ~~Unauthorized Storage. No vehicles, equipment or materials not associated with the mineral extraction facility or not in operable condition may be kept or stored at the facility.~~
12. ~~Setbacks. No extraction activity may occur within five hundred (500) feet of any residence and one hundred (100) feet of any adjacent property, road right of way or public utility. Screeners, crushers, other processing equipment and manufacturing equipment may not be located closer than five hundred (500) feet without berthing. Grading plans affecting pipelines or powerline corridors will be evaluated on a case by case basis.~~

13. ~~Phasing. Phasing plans must be prepared for all mineral extraction facilities. 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 rehabilitated according to the provisions of the ordinance, except for that area included in the maximum thirty five (35) acre operational area. The Town Board may allow exceptions to the phasing requirements for topsoil and clay extraction and phases of operation in existence at the time of this ordinance adoption.~~
14. ~~Berming. Earthen berms shall be constructed along all rights of way and along all property lines within one thousand (1000) feet of any residence. Berms shall be a minimum of eight feet in height.~~
15. ~~Weed Control. The operators shall be required to control noxious weeds and mow or harvest other vegetation to maintain reasonable appearance of the site.~~
16. ~~Explosives. If the use of explosives is desired by the operator, an interim use permit shall be required for each incident to provide adequate public notice and input.~~
17. ~~General Compliance. The operators 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.~~
18. ~~Additional Regulations. Topsoil may not be removed from the mining facility unless specifically authorized in the permit. The Township may impose additional regulations and requirements to the mineral extraction permit to protect the public health, safety, and welfare.~~
19. ~~Inactivity. In the event less than 5000 cubic yards of material has been removed from the facility in any calendar year, the Township may terminate the mineral extraction permit.~~
20. ~~Rehabilitation Plan. A rehabilitation plan must include the grading plans, topsoil replacement, seeding, mulching, erosion control and sedimentation control specifications for each phase and the final site restoration. The following minimum standards and conditions apply:~~
 - a) ~~Final grades may not exceed a 4:1 ratio (25% slope).~~
 - b) ~~A minimum of three (3) inches of topsoil shall be placed and evenly spread on all graded surfaces.~~
 - c) ~~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.~~

- ~~d) 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.~~
- ~~e) Soil erosion and sedimentation control measures shall be consistent with MPCA's publication entitled "Protection Water Quality in Urban Areas" and Section 300, Water and Soil Resource Management provisions of the Castle Rock Township Zoning Ordinance.~~
- ~~f) Unless otherwise amended or approved by the Township, all final grades and site restoration efforts shall be consistent with the Rehabilitation Plan.~~
- ~~g) Within six (6) months after completion of mineral extraction or after termination of the permit, all equipment, vehicles, machinery, materials and debris shall be removed from the subject property.~~
- ~~h) Within twelve (12) months after completion of mineral extraction or after termination of the permit site, rehabilitation must be completed.~~

CC. Termination of Permit:

~~The mineral extraction permit shall be terminated on the happening of any of the following events:~~

- ~~1. The date of termination specified in the interim use permit.~~
- ~~2. Upon a violation of a condition under which the permit was issued, but only after the Township has first provided written notice to the operator (and the landowner, if different from the operator), describing with particularity the specific violation(s) and the steps necessary to cure the violation(s). Excepting threats to public health, safety and welfare or violations with simple remedy, the operator shall have a period not exceeding sixty (60) consecutive days to cure the specific violation(s). If the 60-day remedy period overlaps with or occurs within a period of seasonal shutdown, and the violation(s) are not easily remedied or do not pose a threat to public health, safety and welfare, the 60-day period may be extended to include the seasonal shutdown period. Upon notice of violation(s) which may threaten the public health, safety and welfare or are easily remedied, the operator~~

~~shall respond promptly and cure the violation(s) in the shortest reasonable timeframe.~~

3. ~~Upon a determination that the facility has been inactive,~~

DD. Season Extraction Permit

1. ~~Purpose. The purpose of this section is to establish provisions for mineral extraction on a smaller scale and shorter term basis than allowed in a mineral extraction permit, as set forth herein.~~
2. ~~Eligibility. A seasonal extraction permit may be issued in areas of the Township zoned AG Agriculture District.~~
 - a. ~~Seasonal extraction permits are intended to allow the opportunity for mineral extraction on land which is in close proximity of projects of short duration and a specified period of time, such as road construction, in or near the Township.~~
 - b. ~~Seasonal extraction permits are also intended to allow the opportunity for site grading, which will enhance the use of property, including land where mineral extraction has occurred in the past and rehabilitation has not been completed.~~
3. ~~Process. A seasonal extraction permit will be processed as an Interim Use Permit, according to the provisions and procedures in the Castle Reek Township Zoning Ordinance.~~
4. ~~Area Limitation. The maximum site area that may be included in a seasonal extraction permit is five (5) acres. The Board may expand this limitation if the subject property includes a larger area where mineral extraction has previously occurred.~~
5. ~~Duration. Seasonal extraction permits are valid for a period not exceeding one calendar year. Mineral extraction operations may only occur between May 1 and December 1 of the permit year. Site rehabilitation must be completed by June 1 of the following year. The Board may extend the permit with a limit of two (2) years for operation and one year for restoration of the site.~~
6. ~~Application. An application for a seasonal extraction permit shall be submitted to the Township on a form provided by the Township. Information requirements shall be the same as required for a Mineral Extraction Permit under this Section.~~

~~7. Supporting Documentation. An application for a seasonal extraction permit shall include the same supporting documentation required for a Mineral Extraction Permit under this Section.~~

8. ~~Performance Standards. The performance standards required for a Mineral Extraction Permit under this Section shall apply to seasonal extraction permits, with the following exceptions:~~
 - a. ~~Hours of Operation. The same hours of operation apply to seasonal extraction facilities, except the days of operation are limited to Monday through Friday and no evening activities are permitted.~~
 - b. ~~Setbacks. The Board may modify setback requirements where appropriate.~~
9. ~~General. All other terms and conditions of this Section not in conflict with this Paragraph I shall apply.~~

EE. Enforcement.

1. ~~The operator grants the Township's officers and representatives access to the facility during normal operation hours to inspect the mineral extraction facility and/or seasonal mineral extraction facility and enforce the provisions of this Ordinance.~~
2. ~~The operator shall be responsible for the repair and maintenance of public and private property in the Township which is acknowledged by the operator to be or proven to be damaged by it, its agents or employees in conduction business or any other activity associated with the mineral extraction facility.~~
3. ~~A development agreement will be required for all mineral extraction permits, including seasonal extraction permits.~~
4. ~~The operator shall hold the Township harmless against all claims by third parties for damage or costs 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 attorney's fees.~~
5. ~~Violations not remedied according to the terms of this agreement shall/may result in fines, suspension or revocation of the mining permit or the bringing of criminal charges as defined in Section 15 of this ordinance.~~

FF. Fees.

1. ~~The applicant shall pay for the application fee and any estimated expenses to be incurred by the Township before an application will be processed.~~
2. ~~The application shall reimburse the Township for all out of pocket expenses incurred by the Township in the review of the application.~~

public hearings, preparation of documents, inspections and enforcement of this Ordinance.

3. Permit application fees, consultant review escrow fees, environmental review fees, and renewal fees for mineral extraction are as follows:

MINERAL EXTRACTION FACILITY

| | |
|--|--------|
| Mineral extraction facility application fee | \$2500 |
| Application escrow fund (initial fund to cover out of pocket expenses) | \$5000 |
| Environmental review escrow (requires development contract) | varies |
| Annual renewal fee (due January 1st of each permit year) | \$1000 |

SEASONAL MINERAL EXTRACTION FACILITY

| | |
|--|--------|
| Seasonal mineral extraction facility application fee | \$1000 |
| Application escrow fund (initial fund to cover out of pocket expenses) | \$3000 |
| Environmental review escrow (requires development contract) | varies |
| Annual renewal fee (due January 1st of subsequent permit year) | \$1000 |

L. Financial Guarantee.

The Township shall require 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 guarantee to remove stockpiles and complete site rehabilitation 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 guarantee shall be equal to Five Thousand Dollars (\$5000.00) for every acre authorized in the current phasing plan of the permit. The financial guarantee shall remain in full force and effect for a minimum period of one and one half (1 1/2) years beyond the expiration date or renewal date of the permit.

M. Liability Insurance.

The operator shall, at all times, procure and maintain at the operator's expense general public liability insurance and automobile liability 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 contract. Such insurance shall afford protection to a limit of not less than One Million Dollars (\$1,000,000) in respect to injuries or death to a single person, to a limit of not less than Two Million Dollars (\$2,000,000) in respect to any one accident or occurrence, and to a limit of not less than One Million Dollars (\$1,000,000) in respect to property damage. The Township shall be named an 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.

A. Interim Use Permit Required It shall be unlawful for any person, firm or corporation to remove, store or excavate rock, sand, gravel, clay, silt or

other like material in the township, or to fill or raise the existing surface grades, in the mineral extraction overlay district established in this section without receiving a permit for mineral extraction. Such permits may only be issued in a zoning district where mineral extraction is listed as an interim use and in the mineral extraction district, see Section 6.10. No permit will be required for any of the following:

1. Excavation for a foundation, cellar or basement of a building if a building permit has been issued.
2. Excavation by state, county or township authorities in connection with construction or maintenance of roads, highways or utilities.
3. Curb cuts, utility hookups or street opening for which another permit has been issued by the township.
4. Excavation less than one hundred (100) square feet in area or one foot (1') in depth.
5. Excavation or grading for agricultural purposes.

B. Definitions. For the purposes of this section, the following definitions shall apply:

Asphalt Plant A facility used to manufacture asphalt or other forms of coated road stone, sometimes known as blacktop. This facility allows the combination of a number of aggregates, sand, and filler, in the correct proportions, heated and finally coated with a binder. Often, recycled asphalt or aggregate products (RAP) are used as part of the mix.

Bathymetric of Hydrographic Charts Charts that show lake bottom relief or terrain as contour lines (called depth contours or isobaths) and selected depths (soundings).

Berm A level space, shelf, or raised barrier separating two (2) areas.

Clean Fill As defined in Dakota County ordinance 110.

Concrete A mixture of paste and aggregates (sand and rock). The paste, composed of cement and water, coats the surface of the fine (sand) and coarse aggregates (rocks) and binds them together into a rocklike mass known as concrete.

Construction Aggregates or Aggregate A broad category of coarse particulate material used in construction, including sand, gravel, crushed stone, slag, and recycled concrete.

Conveying (Conveyor) A common piece of mechanical handling equipment that moves materials from one location to another.

Crushing/Crushing Plant A machine or plant designed to reduce large rocks into smaller rocks or gravel.

Dry Mining Mining and excavation that takes place above the ground water table.

DWSMA Drinking Water Supply Management Area. A surface and subsurface area surrounding a public water supply well, including the wellhead protection area, that must be managed by the entity identified in a

wellhead protection plan.

EAW An Environmental Assessment Worksheet is a brief document prepared in worksheet format which is designed to rapidly assess the environmental effects which may be associated with a proposed project per Minnesota Rules Chapter 4410.

EIS An Environmental Impact Statement is a detailed written statement prepared where there is potential for significant environmental effects resulting from a project per Minnesota Rules Chapter 4410.

Floating Dredge (Dredging) An activity of mining that is carried out underwater with a machine equipped to excavate material from underwater and bring it to shore where it can be processed into construction grade aggregates.

Fueling Maintenance and Storage Area A location at the mine site underlain an impervious surface that allows for containment of storage tanks, fueling operations, maintenance, and containment of spills, leaks, and changing of fluids containing hydrocarbons.

Haul Load An internal private road used to transport material.

Haul Route An external public road used to transport material.

Licensed Professional A professional licensed engineer or geoscientist in good standing with appropriate training and expertise needed to direct the referenced investigations, prepare plans, specifications as required by Minnesota Statutes Section 326.02.

Mineral Extraction Extraction of inorganic materials such as ore, gravel or sand.

Mining Buffer/Setback The distance a structure or activity must be from the edge of an EAW/EIS or project boundary line.

Portable Processing Equipment Equipment designed on a skid or axle assembly that can move from point to point allowing for shorter travel times and reduced emissions.

Precast/Cast Concrete Products Products such as bridge beams or plank, concrete pipe or culverts that are cast at a facility and later transported to a specific construction site after a proper curing time has been achieved.

Project/Project Boundary The mining operation being considered for permitting. The project boundary of the Project area as defined by the project proposer in the permit application and the required drawings, plans, and graphics included in the application package.

Ready Mix Concrete Plant A facility that manufactures specifically designed concrete for delivery to a customer's construction site in a freshly mixed or plastic unhardened state.

Reclamation/End Use The process of creating useful landscapes that meet a variety of goals. It includes all aspects of this work, including material placement, stabilizing, capping, regrading, and placing cover soils, revegetation, and maintenance.

Recycled Asphalt and/or Aggregate Products (RAP) Left over or

demolished concrete or asphalt products. These products are recycled (reproduced) and reused in production of new products or road base products used on construction sites.

Screening/Screening Plant A machine that takes granulated material and separates it into multiple grades by particle size.

Sensitivity Areas Areas within the mining area that have been assigned sensitivity ratings.

Staging Setting up of equipment or a truck fleet in preparation for a day's activity.

Stockpile A pile or storage location for bulk materials, forming part of the bulk material handling process. Stockpiles are normally created by a stacking conveyor.

Stripping Removing topsoil (black dirt), clay, timber, brush and waste aggregate products from the top of the mining deposit to expose the quality sand and gravel needed in the production of high-quality construction aggregates.

Ton of Material A U.S. short ton (2,000 pounds) of material.

Topsoil The upper outermost layer of soil, usually in the top two (2) to eight inches (8"). It has the highest concentration of organic matter and is where most of the earth's biological soil activity occurs.

Truck Scale A platform device that a truck will drive onto for weighing to ensure that the truck is of legal weight and/or dimension.

Vulnerable Areas Mapped areas located in DWSMAs assigned a vulnerability designation ranging from very low to very high for the likelihood that activities at the land surface may degrade drinking water quality in public water supply wells.

Washing/Wash Plant A machine into which sand and gravel is conveyed, separated by size, washed, dewatered, and then sent to stockpiles for load out.

Wet Mining Mining and excavation area that will take place below the ground water table.

C. Application Process

1. An interim use permit for mineral extraction is required in the Mineral Extraction Overlay District. The interim use permit requirements as provided in Section 8.08 apply to this process.
2. The applicant shall appear before the Planning Commission to make a preliminary presentation on the mining excavation project before the formal application submittal. The applicant shall hold a neighborhood or community-wide meeting regarding proposed mining activity.
3. Public Hearing: A public hearing will be conducted for consideration of mineral extraction interim use permit applications. The public hearing, public notice and procedure requirements for the interim use permit shall be the same as those for amendments as

provided in section 8.04 of this chapter.

4. Criteria For Mineral Extraction Permit Approval: The following factors will be evaluated when determining whether to approve an interim use permit for a mineral extraction operation. The approval or denial of the interim use permit shall include, but not be limited to, findings on the following factors:
 - a. Consistency With Township Plans and Policies: The proposed mineral extraction permit is consistent with the comprehensive guide plan and the location is suitable in that the excavation, mining, processing, stockpiling or hauling of sand and gravel deposits will not tend to create a nuisance or create unreasonably adverse land use impacts or exceed local, state or federal safety and environmental standards on the adjacent properties. The applicant for an interim use permit, at the applicant's sole cost, shall provide information to help determine the suitability, including, but not limited to, a completed interim use permit application; exhibits illustrating adjacent and on site buildings and land uses; existing elevations and percent of slope within and three hundred feet (300') beyond the perimeter of the EAW/EIS or project boundary; and an environmental impact statement or environmental assessment worksheet, whichever is appropriate as regulated by the Environmental Quality Board.
 - b. Environmental Impacts: An Environmental Assessment Worksheet (EAW as defined by Minnesota Environmental Quality Board rules) shall be required for nonmetallic mining of at least 40 acres to a mean depth of 10 feet. An Environmental Impact Statement (EIS as defined by Minnesota Environmental Quality Board rules) shall be required for a mineral extraction project of at least 160 acres. The proposed project shall be so designed and operated as to minimize adverse impacts identified in the EAW and the EIS. The EAW or EIS shall be considered by the Town Board prior to any final action on a mineral extraction interim use permit request. The application for a mineral extraction permit shall not be considered complete until the time as final comment has been received on the adequacy of the EAW or EIS.
 - c. Mineral Extraction Overlay District: The boundaries of the proposed mineral extraction operation shall be completely within the mineral extraction district.
5. The interim use permit may be established with a maximum duration of 5 years with an opportunity to extend the permit.

D. Application Submittal Requirements: The application for a mineral extraction interim use permit shall include the following:

1. 1. The correct legal description of the land upon which excavation is proposed.

2. The name, address and contact information of the applicant, the owner of the land and the person or corporation conducting the actual removal operation.
3. The names and addresses of all adjacent landowners within one-fourth (1/4) mile.
4. The purpose of the proposed excavation and the type of extraction.
5. The estimated time required to complete the proposed excavation and rehabilitation.
6. The names of the highways, streets or other public roadways within the township upon which the material shall be transported. The application shall provide a map of the haul route, the dimensions of the road, the load of road, road ownership, and any other appropriate information regarding the road construction, location and maintenance.
7. A map of the project boundary to a scale of one-inch equals two hundred feet (1" = 200') showing the presently excavated area, the area proposed to be excavated during the permit period, and the minimum and maximum elevations of the area, and showing a minimum of three hundred feet (300') of the adjacent land on all sides of the proposed excavation area.
8. A rehabilitation, reclamation and restoration plan providing for the orderly and continuing rehabilitation of all excavated land. Such plan shall illustrate, using appropriate photographs, maps and survey drawn to a scale of one-inch equals two hundred feet (1" =200') and with a five-foot (5') contour interval satisfactory to the engineer, including the following:
 - a. Removal of Planned Contours: The removal of planned contours of the land when the mineral removal operations are completed.
 - b. Timetable: The estimated period of time that the pit will be operated and a schedule setting forth the timetable for excavation and rehabilitation of land lying within the active, inactive and restoration areas.
 - c. Soil Stockpile: Those areas of the site used for storage of topsoil and overburden.
 - d. Depth, Slope, Revegetation: The depth of all water bodies, the grade of all slopes after reclamation and a description of the type and quantity of plantings where revegetation is to be established.
 - e. Contour Extension: The five-foot (5') contours shall extend at least two hundred feet (200') beyond the boundary of the operation or beyond the adjoining right of way, whichever is more inclusive.
 - f. Ancillary and Accessory Uses: Ancillary and accessory use rehabilitation, reclamation, and restoration.
 - g. Maximum Slope: The maximum slope of the reclamation area

that is developable shall be at no steeper than five feet (5') horizontal to one foot (1') vertical. The maximum slope of the reclamation area that is undevelopable, such as the area between a water body and a right of way line shall be no steeper than two feet (2') horizontal to one foot (1') vertical. Any slope greater than three feet (3') horizontal to one foot (1') vertical shall be designed by a licensed engineer and approved by the township engineer.

9. For pit lakes formed as result of mining, the bottom contour shall be gradually sloping from the shoreline to the deepest portion of the water body at a maximum slope of ten feet (10') horizontal to one foot (1') vertical from at least fifty feet (50') upland from the proposed shoreline to at least ten feet (10') from the proposed shoreline toward the center of the water body. Beyond ten feet (10') in horizontal distance, the slope of the bottom contours may be no steeper than two to one (2:1). Pit lakes should have sufficient deeper areas to allow for phosphorus sequestration below the wave base of shallow shoal areas.
10. Provision of a grading and erosion control plan that indicates that the mining operation does not adversely affect the quality of surface or subsurface waters is required.
11. When mining is proposed below the water table or within twenty (20) vertical feet of a historic groundwater table elevation, then a hydrogeological study shall be submitted. The study shall be prepared under the direction of a licensed professional will include tests of soils and groundwater to determine the presence of contaminants on the site that will, or could be, released to the groundwater or the environment by mining or related activities. All contaminants of concern identified in the EAW/EIS or project boundary, as identified by the licensed professional, and any other contaminants identified by the Town Board will be studied unless the applicant demonstrates to the satisfaction of the Town Board that such study is not warranted. The hydrogeological study shall include the following:
 - a. Description of each groundwater excavation (size, shape and location).
 - b. Inventory and description of the location and construction information of all wells within three hundred feet (300') of the EAW/EIS or project boundary as defined by the application if an EAW or EIS was not required.
 - c. Description of the proposed fill activity (grain size distribution, quantity, and placement procedures).
 - d. Description of the aquifer characteristics in the area of each groundwater excavation to be affected by proposed fill activity (aquifer thickness and general geological setting).

- e. Description of the impacts of the proposed fill activity on groundwater flow regimes.
- f. Description of a groundwater monitoring plan including evidence, to the Town Board's satisfaction, that the proposed monitoring will provide timely and effective notice of changes to the hydrology, the presence of contaminants of concern that were not previously identified, or the release, movement, or the threatened release of contaminants.
- g. Identify and describe all measures that will be taken to avoid potential impacts on the groundwater from mining or related activities including, but not limited to, testing, monitoring, containment, and mitigation. The groundwater plan must specifically address:
 - i. Fueling, Maintenance, and Storage Areas
 - ii. Potential impacts to private wells and wetlands, and monitoring/mitigation recommended from the EAW/EIS (if applicable).
 - iii. Reference to developer agreements with well owners that describe how baseline well assessments will be conducted if applicable, and what actions will be performed if it is determined that wells are affected by the mining activities.
 - iv. Identify the depth to Prairie Du Chien-Jordan aquifer and determine the appropriate separation between the mining activity and the aquifer.
- h. Such other information as the township may from time to time require.

12. Location of any and all existing wells, including shallow disposal systems, on the mining application site, within moderate to highly vulnerable areas within DWSMA or sensitivity areas, or wells within $\frac{1}{2}$ mile of the entire mining application site, and the size and depth thereof. Prior to the start of mining operations, all water supply wells located within the proposed area to be mined shall be reviewed by a licensed well driller to determine if the well(s) require repair or sealing in accordance with MN Rules Chapter 4725 Wells and Borings.

13. Permittee shall provide a map showing direction of groundwater flow in deposit, location and construction of wells (including dewatering/washing), and any surface water bodies at appropriate scale.

14. Permittee shall provide a surface water study and protection plan including a contingency response plan and employee training to facilitate immediate and remedial response should any accident, release of contaminant, or other spill occur.

15. Such other information as the township may from time to time

require, including, but not limited to, the location or anticipated location of all stockpiles of aggregate based construction debris material on the land for which the permit is desired.

E. Performance Standards

1. Boundary: Extraction operations shall be conducted within the confines of the excavation site described in the permit.
2. Access: Extraction operations shall only be allowed on sites that have direct access to a principal arterial, major or minor arterial, or collector street as designated in the county's comprehensive plan. A local street may be used if approved by the Town Board.
3. Setbacks: Setback boundaries from any mining activity to the following land uses shall be as follows. Where setbacks are measured from zoning district boundaries that occur along a public street right of way, the zoning district boundary is assumed to be the centerline of that public right of way.
 - a. Inhabited residence on residential zoned property: Five hundred feet (500').
 - b. Industrial, commercial or institutional zoning district: One hundred fifty feet (150').
 - c. Agricultural zoning district: Thirty feet (30').
 - d. Inhabited residence not in a residential zoning district: Two hundred feet (200'). One thousand (1,000) feet without expressed written permission of the residential property owner.
 - e. Preexisting water bodies: One hundred fifty feet (150') or fifty feet (50 feet) from highest water or flood level.
4. Height
 - a. The height of all equipment, stockpiles, and all other operations, except those described in subsections F4b and F4c of this section, within the permitted mineral extraction operation shall not exceed sixty feet (60'). This standard does not apply to the ancillary facilities covered by a separate interim use permit.
 - b. The Town Board may approve a limited number of stationary conveyors to a height no taller than sixty-five feet (65') provided that all practical means of screening and setbacks are employed into the conveyors construction and installation.
 - c. The floating dredge shall not exceed seventy-five feet (75') in height.
5. Appearance, Screening, And Berming: The mining shall be screened from any public right of way or urban development through a combination of existing stands of trees, berming and installed landscaping.
 - a. Existing Tree Stands: The preferred method of screening the mining operation is by maintaining existing stands of trees that would provide a level of at least eighty percent (80%) to ninety

percent (90%) opacity. If the stand of trees does not provide eighty percent (80%) to ninety percent (90%) opacity, then additional landscaping or berming shall be installed to provide eighty percent (80%) to ninety percent (90%) opacity. An annual opacity audit of the tree stands may be conducted, and dead vegetation shall be removed and additional landscaping or berming shall be installed to maintain the required opacity. The methodology for the opacity measure shall be taken during full leaf growth from the shoulder of any public road or neighboring property to determine opacity in a band five feet (5') to seven feet (7') off the ground.

- b. Berms: Berms shall be constructed in areas where the existing tree stands do not exist. The berms shall be at least ten feet (10') in height measured from the toe of the berm or from the fog line of the existing public road, whichever results in the greatest height of the berm.

6. Slopes

- a. Mining: During the entire period of operations, all excavations other than the working face shall be sloped on all sides no steeper than one foot (1') horizontal to one foot (1') vertical, unless a steeper slope is approved by the township engineer.
- b. Berming: The public view or right of way face of the perimeter berms shall be sloped no steeper than four feet (4') horizontal to one foot (1') vertical. The extraction side of the perimeter berm shall be sloped no steeper than three feet (3') horizontal to one foot (1') vertical.
- c. Where excavations are adjacent to a public roadway or other right of way, the excavation shall have a maximum slope of four feet (4') horizontal to one foot (1') vertical. Slopes adjacent to waterways shall not exceed six feet (6') horizontal to one foot (1') vertical.

7. Paved Access Road: All access roads from a mineral extraction operation to any public roadway shall be paved with asphalt or concrete for a distance of at least one hundred fifty feet (150'), measured from the mining side of the public right of way, to minimize dust conditions. The Town Board may require the haul road to meet 9-ton standards depending upon the amount of truck activity proposed with the project. During the annual operating permit review, the Town Board may require additional paving length if dust and mud tracking are identified as a problem by the township. All unpaved roads within the mining operation shall be treated with a dust suppressant as needed consistent with the standards in the annual operating permit.

8. Fencing: Fencing shall be erected around the entire operation and shall be a type specified by the township. The site requires a gate/fencing at the entrance to prevent unauthorized access. Fencing

shall be required around collections of water 1.5 feet or more in depth or slopes steeper than 1 foot vertical to 1.5 feet horizontal.

9. Lighting: Any lighting shall be shielded to prevent lights from being directed at traffic on a public road in such brilliance that it impairs the vision of the driver and may not interfere with or obscure traffic signs or signals. The level of lighting shall not exceed 1.0 lumen at the EAW/EIS or project boundary.

10. Landscaping: The operator must maintain buildings and plants in a neat condition. Weeds and other unsightly or noxious vegetation shall be controlled as necessary to preserve the appearance of landscaped areas.

a. Existing tree and ground cover shall be preserved to the maximum extent feasible, maintained or supplemented by selective cutting, transplanting and replanting of trees, shrubs and other ground cover along all setback areas.

b. The public view and right of way side of berms that are planned to exist longer than fifteen (15) years shall be landscaped with a density of one tree per six hundred twenty-five (625) square feet. A minimum of sixty six percent (66%) of the trees shall be conifers.

c. The Town Board may consider staggering the timing of the installation of the landscaping if more berming is constructed than is required to screen the phase of mining permitted with the annual operating permit.

d. Berms that are planned to exist less than fifteen (15) years shall be landscaped with a standard MN Department of Transportation right of way mix.

e. All areas reclaimed shall be seeded with a township approved seed mix within fourteen (14) days of final grade being established. Additional seeding shall be applied as needed until the vegetation has been established.

f. The township may require cover over areas that have remained undisturbed for more than twelve (12) months if it is determined that these areas generate airborne dust particles.

11. Gravel Production And Phasing

a. A phasing plan shall be prepared.

b. No mineral extraction permit shall authorize extraction to be conducted on more than fifteen (15) acres at one time for extraction, processing, staging, and stockpiling for mines 80 acres and under. Areas where extraction is completed shall be rehabilitated. If the mineral extraction area is over 80 acres, an extraction phase can be up to 80 acres at one time and may be allowed in two different areas of the mine, with Town Board approval.

12. Haul Back Materials and Operations: The Town Board may permit the depositing of clean and compactable inorganic fill that is able to support the anticipated reclamation use as defined by the Comprehensive Plan to achieve the reclamation grades. The

permittee shall submit a haul back management plan that includes the types of fill that shall be deposited, where the fill comes from, and what testing of the fill shall occur. The testing result for the material proposed to be used as fill shall be submitted to and approved by township staff before the fill material is transferred within the EAW/EIS or project boundary. Minimally contaminated fill is not allowed within ten (10) vertical feet of groundwater per Dakota County ordinance 110 Section 3.12.B.

13. Compliance With Other Governmental Regulations: The mineral extraction operation shall comply with all applicable federal, state, and county laws and regulations applicable to the operation of the mineral extraction facility, including but not limited to floodplain management regulations, and shoreland management regulations including Dakota County ordinances 110 and 111.
14. Other Requirements As Determined By the Town Board: The permittee shall comply with such other requirements as the Town Board shall from time to time deem proper and necessary for the protection of its citizens and the general welfare.

F. Operational Regulations

1. Hours of Operations
 - a. Mining: The hours of operation shall be limited to seven o'clock (7:00) A.M. to six o'clock (6:00) P.M. Monday through Friday and seven o'clock (7:00) A.M. to noon on Saturday. The Town Board may grant special permission for extra hours of operation within the annual extraction permit. The extra hours of operation may be conditioned on more restrictive performance standards to address the additional adverse impacts caused by the extra hours of operation.
 - b. Crushing And Washing: The hours of operation shall be limited to seven o'clock (7:00) A.M. to six o'clock (6:00) P.M. Monday through Friday and seven o'clock (7:00) A.M. to noon on Saturday. The Town Board may grant special permission for extra hours of operation within the annual extraction permit. The extra hours of operation may be conditioned on more restrictive performance standards to address the adverse impacts caused by the extra hours of operation.
 - c. Truck Hauling: The hours of operation shall be limited to seven o'clock (7:00) A.M. to six o'clock (6:00) P.M. Monday through Friday and seven o'clock (7:00) A.M. to noon on Saturday. The Town Board may grant special permission for extra hours of operation within the annual extraction permit. The extra hours of operation may be conditioned on more restrictive performance standards, including, but not limited to, the truck haul routes, to address the adverse impacts caused by the extra hours of operation.
 - d. Staging Activities: Staging activities will be permitted one-half (1/2) hour before normal hours and one-half (1/2) hour after

normal hours. Staging activities include lining up and loading of trucks, equipment inspections, fueling, and other similar related actions. Trucks may enter the site within one-half (1/2) hour before the normal hours; however, no gravel trucks may leave the site until normal hours of operation. After the P.M. normal hours of operation and within one-half (1/2) hour past the P.M. normal hours of operation, site cleanup and equipment maintenance is permitted as well.

2. Dewatering Prohibition: No dewatering methods shall be utilized during the excavation process which will impact the ground water table.
3. Equipment: No vehicles, equipment or materials not associated with the mineral extraction facility or not in operable condition may be kept or stored at the facility. All equipment used for mining and extraction operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, noises, dust and vibrations adversely affecting the surrounding property.
4. Maintenance Of Mining Vehicles
 - a. All machinery shall be kept operational.
 - b. Refueling with or storage and processing of oil, fuel, hydraulic fluid or other automobile fluids shall not occur within the sensitivity areas unless conducted on an impervious pad with secondary containment.
 - c. Above ground storage tanks (AST) with approved containment meeting the MPCA rules are permitted within the mining area. All other storage tanks are prohibited. The operator will prepare an Emergency Spill Response Plan.
 - d. All on-site storage of fuel must meet federal, state, and local standards. Fuel storage facilities or any equipment must be drained or removed during the off-season, or long periods (60 days) of inactivity.
 - e. No spraying of truck boxes with oil unless on impervious surface with secondary containment is permitted.
 - f. All machinery shall be periodically inspected, repaired, and painted as needed to prevent rusting or other deterioration of the machinery.
5. Haul Routes: The applicant shall submit to the township a detailed map of the streets on which the material removed shall be transported (haul routes). Haul route shall be on 9- ton blacktop roads. The township shall inspect the haul routes proposed to be used by the applicant or owner and shall recommend any necessary upgrades or repairs that may be needed to accommodate use as haul roads for the excavation activity. The Town Board shall designate the haul routes and the applicant should notify any jurisdiction making use of their roadway for hauling purposes. It shall be the responsibility of the applicant or owner to maintain the haul routes in accordance with the provisions set forth in the permit. The township shall periodically inspect haul routes to ensure compliance with the permit. During the

period of, or upon completion of, the excavation operations, the applicant or owner shall make any necessary repairs to the haul routes as recommended by the township. All costs of inspection provided for in this subsection shall be borne by the applicant or owner. The use of the haul routes shall be subject to any road and weight restrictions imposed by the township. The operator shall be responsible for reimbursing the township for any additional maintenance costs incurred for public roads as a result of the mining operation.

6. Fuel Storage: All Fuel Storage shall be managed in a designated area with no less than 10 feet separation between bedrock and/or water table and must meet applicable federal, state, and local rules. Fuel storage facilities or any equipment must be drained or removed during the off-season, or long periods (60 days) of inactivity. All tanks, regardless of size shall meet MPCA rules and regulations that apply to tanks with capacity greater than 1,100 gallons. Permittee shall prepare an emergency spill response plan. Only above ground storage tanks shall be allowed with approved containment per MN Pollution Control Agency regulations.
7. Dust Control: Operators shall use all practical means to reduce the amount of fugitive dust generated by excavation operations. In any event, the amount of dust or other particulate matter generated by the excavation shall not exceed air pollution standards established by the Minnesota Pollution Control Agency. On days with wind advisory, as defined by the National Oceanic and Atmospheric Administration's National Weather Service, the Zoning Administrator may require during the time of wind advisory that any dry mining operation cease operations to eliminate additional dust generation.
8. Use of Explosives: Public notice shall be required for each blasting incident if approved by the Town Board. Thirty-six-hour notification of blasting shall occur for all properties located within 1 mile of the blast. The mine owner or operator will provide blast monitoring in three to five locations to be determined as part of the mining permit approval.
9. Noise: Maximum noise level at the perimeter of the EAW/EIS or project boundary shall comply with the limits or standards established by the Minnesota Pollution Control Agency and the United States Environmental Protection Agency. Trucks may not idle before approved operational hours commence except for the ½ hour staging allowance.
10. Vibration: Operators must use all practical methods to minimize impacts of equipment vibration on adjacent properties.
11. Security: Mining areas should be secured to reduce risk of use as a public disposal site. The property owner or operator is responsible for any clean up on the site.

G. Environmental Standards

1. Minimize Impact to Surface Water

- a. Surface drainage from adjacent properties shall be diverted away from the mining areas so no surface drainage will infiltrate into the ground or into areas with aggregate or minerals exposed, or the water table if exposed in a former pit.
 - b. No hazardous material can be stored on site.
 - c. Stockpiling of materials must be stored in such a manner that erosion of materials does not negatively affect surface water which may include vegetating stockpiled soils or fencing sand material.
2. Surface Water Pollution: The permittee shall prepare a surface water protection plan to ensure that surface water quality is not impacted by the mining operation, accidents or spills within the mining area. The mining plans shall comply with the township's Surface Water Management Plan. Excavation operators shall comply with all applicable Minnesota Pollution Control Agency and Department of Natural Resources regulations and all applicable United States Environmental Protection Agency regulations for the protection of water quality. No waste products or processed residue, including untreated wash water, shall be deposited in any public waters of the State of Minnesota.
3. Minimize Impact to Groundwater
 - a. A plan for groundwater quality protection shall be submitted with the mining application. The groundwater plan shall include a minimum of 3 borings showing depth to groundwater. The final plan and associated reports included in the permit application shall be prepared under the direction of and certified by a licensed professional. A draft plan prepared for the purpose of an EAW or EIS is acceptable for the permit application but must be certified by a licensed professional prior to final approval of the permit.
 - b. No spraying of truck boxes with oil is allowed unless it is on an impervious surface with secondary containment.
 - c. All wells within the proposed mining areas shall be accurately located and constructed according to MN Rules 4725 Wells and Borings.
 - d. All potential contaminant sources shall meet state required isolation distances from all wells.
 - e. Permittee shall provide a map showing direction of groundwater flow in deposit, location and construction of wells (including dewatering/washing), and any surface water bodies at appropriate scale. Construction of Class V wells are prohibited within moderate to highly vulnerable areas within DWSMA or sensitivity areas.
 - f. Mining activities, including blasting and excavation will not occur any closer than ten feet (10') above the groundwater table, or as otherwise determined by a hydrogeological study.
 - g. A separation between the bottom of sand and gravel mine excavation and the top of the bedrock surface is required to be fifteen feet (15'), or as otherwise determined by a

hydrogeological study.

4. Groundwater: The excavation operators shall prepare a groundwater monitoring plan to ensure that groundwater flow, level, or quality is not impacted. The groundwater monitoring plan shall comply with City and MN Pollution Control Agency regulations. The groundwater monitoring plan may include the surface water monitoring of any created water body that is fed by groundwater including the monitoring of any water bodies or channelized waterways tributary to the created water body.
5. Maintenance of Topsoil: All topsoil located within the EAW/EIS or project boundary before the mineral extraction operation begins, except the topsoil located over areas that are planned to be reclaimed as open water, shall remain within boundaries of the operation. All topsoil shall be retained at the mining site until the completion of rehabilitation/reclamation work in accordance with the rehabilitation/reclamation plan. Additional topsoil may be retained or imported to ensure that a minimum of six inches (6") of topsoil is placed on all areas reclaimed and restored as dry ground.
6. Water and Air Quality: All activities on the subject property will be conducted in a manner consistent with the Minnesota Pollution Control Agency's operating permits.
Dewatering/Washing of Aggregate:
Prior to locating a well that may be used for wash water or dewatering the site, the operator or owner shall address impacts that groundwater pumping may have on altering the DWSMA boundary or sensitivity of the public water supply wells or how they affect local private wells. Submission of a study for review and approval by the township shall occur prior to issuance of a mining permit. The study must be prepared under the direction of a licensed professional.
A groundwater appropriation permit is required from the MN Department of Natural Resources prior to any use of a high-capacity well associated with a mining operation. The applicant shall provide a map at scale showing well(s) location, proposed pumping point, volume and discharge location. Any changes to pumping volumes (or increases) requires an updated model to evaluate potential impacts to alter the DWSMA boundary or sensitivity of the public waters supply wells.
Prior to approval for dewatering or washing of aggregate the operator or owner shall consider and document methods to conserve water through implementation of water reuse measures.
A hydrologic study shall be prepared under the direction of a licensed professional regarding potential for dewatering impacts to private wells, receiving waters (e.g., due to flooding), trout streams, and potential impacts to other surface water and wetlands.
7. Wastewater

- a. The operator or owner may install an on-site sewage treatment system so long as they are not located within the one-year time of travel area from DWSMA or sensitivity areas.
- b. The operator or owner shall also verify proximity to private wells. A portable system that is cleaned out is required if no public sanitary sewer system is available and private wells are within the isolation distances as defined by MN Rules Chapter 4725. On-site sewage treatment systems shall conform with title 9, chapter 6 of this code, Dakota County ordinance 113, and all applicable state and federal regulations.

H. Site Uses

1. Accessory Uses: Within a mineral extraction operation, the following uses are customarily incidental to its operation and do not require a separate permit or approval. These accessory uses must meet the same performance standards as the mineral extraction operation.
 - a. a. Gravel crushing.
 - b. Gravel washing.
 - c. Minor vehicle and mining equipment maintenance.
 - d. Offices associated with the mining operation and ancillary uses.
 - e. Stockpiling.
 - f. Storage of machinery used daily in the extraction area.
 - g. Truck washing.
2. Ancillary Uses: There are a number of uses and production facilities that either use significant quantities of aggregate resources or benefit from close proximity to mineral extraction operations but also generate issues, nuisances and adverse land use impacts beyond the scope of the operation itself. The following regulations apply to these ancillary uses to a mineral extraction operation:
 - a. Separate Interim Use Permit Required: To address the issues, nuisances and adverse land use impacts generated by ancillary uses, a separate interim use permit as provided in section 8.08 of this chapter shall be applied for and approved for each ancillary use. The listing of a use in this section does not mean that the use will be approved within the mineral extraction operation or that the use will be allowed during the entire duration of the operation. The decision whether to grant, grant with conditions, or deny an interim use permit application for such an ancillary use is within the discretion of the Town Board.
 - b. Association with Mining Activity: An ancillary use may be allowed provided that any of the following conditions are met:
 - i. On a site that has an approved mineral extraction interim use permit in compliance with this section.
 - ii. In conjunction with mineral extraction occurring within the approved EAW/EIS or project boundary, provided the municipality has approved the mineral extraction.
 - c. Ancillary Uses Considered: The following is a list of ancillary uses that may be considered in association with a mineral

extraction operation and the issues and performance standards
that shall be addressed within the interim use permit:

- i. Aggregate processing and recycled aggregate products
production. The conveying, crushing, mixing, screening, and
washing of aggregate and recycling concrete and asphalt may
be allowed on a site that has an approved mineral extraction
interim use permit in compliance with this section. In
addition, the following performance standards shall apply:
 - a) Location: The plant shall be located in such a way as to
minimize its visibility from an adjacent residential use
or a public right of way. This may be accomplished
through topography, landscaping, existing vegetation,
berming or setback.
 - b) Material Stockpiles: Stockpiles associated with these
uses shall be limited to a height of sixty feet (60').
 - c) Hours Of Operation: The hours of operation shall be
limited to seven o'clock (7:00) A.M. to six o'clock
(6:00) P.M. Monday through Friday unless special
permission is granted by the Town Board within the
interim use permit. The extra hours of operation may be
conditioned on more restrictive performance standards
to address the adverse impacts caused by the extra
hours.
 - d) Ratio Of Aggregate Processing To Recycled Aggregate
Products Production: To maximize the use of mined
aggregate material and minimize importing of recycled
material transported from outside the associated gravel
mine, a ratio of aggregate processing to recycled
aggregate product processing shall be established within
the interim use permit. The ratio shall have a minimum
of seventy percent (70%) aggregate processing and a
maximum of thirty percent (30%) recycled aggregate
product processing. The ratio shall be based on tonnage
sales and the actual tonnage sales shall be reported to
the township on an annual basis. The Town Board may
limit the area in the aggregate process facility in which
the recycled aggregate products may be stored.
- ii. Asphalt production. A plant for the production of asphalt may be
allowed on a site that has an approved mineral extraction permit
in compliance with this section. In addition, the following
performance standards shall apply:
 - a) Location: The asphalt plant and all equipment
associated with it shall be located a minimum of six
hundred sixty feet (660') from any nonagricultural
zoned land.
 - b) Setback and Buffering: The plant and all equipment and
materials associated with it shall be set back a minimum

of seventy-five feet (75') from any EAW/EIS or project boundary line and screened by natural features including berthing or vegetation. Year round one hundred percent (100%) opaque screening with earthen berms and landscaping shall be required from ground level to the first thirty percent (30%) of the overall height and fifty percent (50%) opaque to fifty percent (50%) of the overall height of the plant as viewed from eye level from surrounding rights of way or roadways.

- c) Haul Routes: Traffic generated by this use shall utilize haul routes approved by the city and other agencies as required. The plant owner shall be responsible for road improvements and easements needed for ingress and egress subject to approval by the township. The haul routes may require Dakota County Highway Department or the Minnesota Department of Transportation approval.
- d) Access: Traffic generated by this use shall enter onto streets consistent with township access and design standards. The owner of these uses shall be responsible for all costs associated with road improvements required to serve the use.
- e) Material Stockpiles: Stockpiles associated with these uses shall be limited to a height of sixty feet (60').
- f) Outdoor Storage: There shall be no outdoor storage of finished material or products. All equipment and raw material associated with the asphalt plant must be screened from view from an adjacent residential use or public right of way.
- g) Air Emissions: Asphalt operations shall comply with Minnesota rules, part 7011 for testing, monitoring and operational requirements.
- h) Waste Byproducts: This use shall operate so as not to discharge onto the soils within the EAW/EIS or project boundary, across the EAW/EIS or project boundary line or through percolation into the subsoil within the EAW/EIS or project boundary or beyond the EAW/EIS or project boundary line where such use is located, toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort or welfare; or, cause injury or damage to property or business.
- i) Odors: This use shall operate so as to prevent the emission of odorous matter of such quality as to be detectable beyond EAW/EIS or project boundary line.
- j) Surety Bond: This use shall comply with the applicable operating, special requirements and bonding for

restoration standards for mineral extraction specified in Section 7.18.

k) Hours of Operation: The hours of operation shall be limited to seven o'clock (7:00) A.M. to six o'clock (6:00) P.M. Monday through Friday unless special permission is granted by the Town Board within the interim use permit. The extra hours of operation may be conditioned on more restrictive performance standards to address the adverse impacts caused by the extra hours.

l) Asphalt production shall not take place within moderate to highly vulnerable areas within a DWSMA or sensitivity areas unless it is located on an impervious pad with secondary containment.

m) Storage and processing of recycled bituminous materials shall not be allowed within the sensitive portions of a DWSMA unless conducted on an impervious pad with secondary containment.

iii. Casting yard. A facility for the manufacturing of precast concrete products may be allowed on a site that has an approved mineral extraction interim use permit in compliance with this section. The casting of the concrete products shall occur within a building while the curing of the products may occur outdoors. The Town Board may approve the outdoor casting of oversized concrete products provided that the oversized products are to be used in a construction project that the operator has been awarded and the outdoor oversized product casting ceases when the construction project is finished. The construction and design of a casting yard that will exist longer than ten (10) years shall comply with site, lot, and building standards.

iv. Concrete production. A plant for the production of concrete may be allowed on a site that has an approved mineral extraction interim use permit in compliance with this section. In addition, the following performance standards shall apply:

a) Location: The plant shall be located in such a way as to minimize its visibility from an adjacent residential use or a public right of way. This may be accomplished through topography, landscaping, existing vegetation, berthing or setback. The minimum setback from any EAW/EIS or project boundary line shall be twice the height of the plant or applicable setback under this code, whichever is greater.

b) Multiple Ready Mix Concrete Plants: If a facility is to have multiple concrete plants, each concrete plant shall have its own separate interim use permit. The primary ready mix concrete plant shall have the equipment, except for silos and the conveyors that transport

materials into the building, enclosed within a building.
One or more secondary concrete plants may be
permitted if an active interim use permit for the primary
concrete plant has been approved that includes a
requirement that the primary concrete plant building be
completed within eighteen (18) months of approval.

- c) Plant Height: The maximum height of any concrete
plant shall be one hundred five feet (105').
- d) Material Stockpiles: Stockpiles associated with these
uses shall be limited to a height of sixty feet (60').
- e) Outdoor Storage: There shall be no outdoor storage of
finished material or products. All equipment and raw
material associated with the cement or concrete plant
must be screened from view from an adjacent
residential use or public right of way.
- f) Hours Of Operation: The hours of operation shall be
limited to seven o'clock (7:00) A.M. to six o'clock
(6:00) P.M. Monday through Friday unless special
permission is granted by the Town Board within the
interim use permit. The extra hours of operation may be
conditioned on more restrictive performance standards
to address the additional adverse impacts resulting from
the extra hours.
- g) Haul Routes: Traffic generated by this use shall utilize
haul routes approved by the city and other agencies as
required. The plant owner shall be responsible for road
improvements and easements needed for ingress and
egress subject to approval by the township. The haul
routes may require Dakota County Highway
Department or the Minnesota Department of
Transportation approval.

v. Maintenance Facility. A facility for the repair of trucks, other
vehicles and equipment used in a mineral extraction operation
may be allowed on a site that has an approved mineral extraction
interim use permit in compliance with this section. The
construction and design of the maintenance facility shall comply
with site, lot, and building standards within the zoning code for
industrial district performance standards. Activities held within
the maintenance facility must comply with mining performance,
operational, and environmental standards.

vi. Minor Retail Sales: a facility allowing some minor retail sales of
aggregate or other mined products may be allowed on a site that
has an approved mineral extraction interim use permit in
compliance with this section. The sales shall not adversely
impact the neighborhood or create parking or traffic impacts
associated with the additional use. Hours of operation will be
determined by the Town Board and will be reasonable so as to

not cause nuisance issues such as noise or light.

- a) Other Requirements as Determined By Town Board:
The permittee shall comply with such other requirements as the Town Board shall from time to time deem proper and necessary for the protection of its citizens and the general welfare.
- b) Mining areas should be secured to reduce risk of uses as a public disposal site.

I. Season Extraction Permit.

- 1. Purpose. The purpose of this section is to establish provisions for mineral extraction on a smaller scale and shorter term basis than allowed in a mineral extraction permit, as set forth herein.
- 2. Eligibility. A seasonal extraction permit may be issued in areas of the Township zoned AG Agriculture District.
 - a. Seasonal extraction permits are intended to allow the opportunity for mineral extraction on land which is in close proximity of projects of short duration and a specified period of time, such as road construction, in or near the Township.
 - b. Seasonal extraction permits are also intended to allow the opportunity for site grading, which will enhance the use of property, including land where mineral extraction has occurred in the past and rehabilitation has not been completed.
- 3. Process. A seasonal extraction permit will be processed as an Interim Use Permit, according to the provisions and procedures in the Castle Rock Township Zoning Ordinance.
- 4. Area Limitation. The maximum site area that may be included in a seasonal extraction permit is five (5) acres. The Board may expand this limitation if the subject property includes a larger area where mineral extraction has previously occurred.
- 5. Duration. Seasonal extraction permits are valid for a period not exceeding one calendar year. Mineral extraction operations may only occur between May 1 and December 1 of the permit year. Site rehabilitation must be completed by June 1 of the following year. The Board may extend the permit with a limit of two (2) years for operation and one year for restoration of the site.

4.6. Application. An application for a seasonal extraction permit shall be submitted to the Township on a form provided by the Township. Information requirements shall be the same as required for a Mineral Extraction Permit under this Section. The applicant shall follow application procedures detailed in Section 7.17 D.

4.7. Application Submittal Requirements. An application for a seasonal extraction permit shall include the same supporting documentation required for a Mineral Extraction Permit as detailed in Section 7.17 E.

4.8. Performance Standards. Performance standards for a seasonal extraction permit shall meet or exceed provisions detailed in Section 7.17 F.

4.9. Environmental Standards. Environmental standards for a seasonal extraction permit shall meet or exceed provisions detailed in Section 7.17 H.

7.19 Mineral Extraction Reclamation

A. Rehabilitation, Reclamation, and Restoration Plan

Providing for the orderly and continuing rehabilitation of all excavated land shall be required. Such plan shall illustrate, using appropriate photographs, maps, and surveys drawn to a scale of one-inch equals two hundred feet (1" = 200') and with a five-foot (5') contour interval satisfactory to the engineer, the following:

1. Removal Of Planned Contours: The removal of planned contours of the land when the mineral removal operations are completed.
2. Timetable: The estimated period of time that the pit will be operated and a schedule setting forth the timetable for excavation and rehabilitation of land lying within the active, inactive and restoration areas.
3. Soil Stockpiles: Those areas of the site used for storage of topsoil and overburden.
4. Depth: Slope: Revegetation: The depth of all water bodies, the slopes of all slopes after rehabilitation and a description of the type and quantity of plantings where revegetation is to be established.
5. Contour Extension: The five-foot (5') contours shall extend at least two hundred feet (200') beyond the boundary of the operation or beyond the adjoining right of way, whichever is more inclusive.
6. Ancillary and Accessory Uses: Ancillary and accessory use rehabilitation, reclamation, and restoration plan.
7. Maximum Slope: The maximum slope of the reclamation area that is developable shall be at no steeper than five feet (5') horizontal to one foot (1') vertical. The maximum slope of the reclamation area that is undevelopable, such as the area between a water body and a right of way line shall be no steeper than two feet (2') horizontal to one foot (1') vertical. Any slope greater than three feet (3') horizontal to one foot (1') vertical shall be designed by a licensed engineer and approved by the

township engineer.

8. Development: The reclamation and rehabilitation plan shall provide for reasonable development consistent with the adopted Comprehensive Plan. Grades provided on the plans must provide for installation of utilities and roadway systems consistent with the regulations of the township and the engineering standards for road and utility installation.

B. End Use Grading Plan:
For mining operations that are expected to require more than twenty (20) years to complete, the Town Board may approve an end use grading plan for the area that is expected to be completed within twenty (20) years. The Town Board shall not approve an annual operating permit for an area without an approved end use grading plan.

C. Removal of Buildings, Structures, And Vehicles:
Within eighteen (18) months of the reclamation of each phase, all buildings, structures and plants incidental to that phase of operation shall be dismantled and removed by and at the expense of the operator last operating the building, structure or plant, or the owner of the property, unless the structure or use is compatible with the anticipated ultimate use of the property. All buildings, structures or plants not removed as required by this section may be removed by the township with the costs for the removal charged to the permittee or the owner of the property.

D. Separation, fill and Topsoil:

1. Where the final mine floor is within 15 feet of the bedrock surface, a 15-foot separation buffer is required over the bedrock surface to protect groundwater and allow for future development.
2. A topsoil layer shall be placed above the buffer layer where the buffer layer extends above the water table. For pit lakes where the buffer layer is greater than 15 feet below the water table, no topsoil layer is required above the buffer layer. For pit lakes where the buffer layer leaves less than 10 feet of water depth (on average), a reclamation design approved by a licensed professional shall be submitted that addresses the potential surface water quality related to consistency with development plans and the potential for excess nutrient accumulation in a shallow pit lake.
3. Buffer layer material and topsoil should consist of clean, native fill material derived from the Project site. If imported off-site materials are necessary, a testing plan certified by a licensed professional shall be provided to ensure that the soils placed below the water table do not cause contamination in the pit lake. Topsoil material shall consist of suitable plant growth material, organic matter content, and thickness to support adequate plant growth. Vegetation selection should be based rapid stabilization of the soil, avoidance of invasive species, and be sustainable with respect to long term weed management.
4. Vegetation used shall be native species or similar that do not require regular or seasonal application of nutrients or pesticides.

E. Annual Operating Review and Permit:

1. Purpose of The Annual Operating Permit: A mineral extraction operation may extend for years or decades to complete. The purpose of the annual operating review and permit is to provide an opportunity for

the Town Board to review the operation of the mine, gather public comment on the operation, modify any permit conditions as necessary to address adverse impacts that arise from the operation, and revise the phases and/or subphases of the mine. The mineral extraction interim use permit provides a zoning basis for the mine provided the city issues an annual operating permit.

2. Procedure: The application shall be administratively reviewed and approved by staff for completeness. The permit will be processed consistent with Section 8.08 as an interim use permit.
3. Area Without an End Use Grading Plan: The Town Board shall not issue an interim use permit for mineral extraction for an area without an approved end use grading plan that accommodates the land use of the underlying zoning district or the land use consistent with the adopted Comprehensive Plan.
4. Duration of Operating Permit: The mineral extraction review shall run from January 1 through December 31 of the same year or for a lesser period of time as the Town Board may specify at the time of issuance of the extraction permit. If the extraction permit is to run for less than a full year, the fee shall be prorated as determined by the Town Board.
5. Operating Permit Fee: The fee for mineral extraction permit shall be as established from time to time by resolution of the Town Board.
6. Inspections: The township may inspect all mineral extraction sites where a mineral extraction permit has been issued. The operator or owner of any mineral extraction operation found in violation of the requirements of this ordinance, or its extraction permit shall remedy such violations within the time specified by written notice from the township.
7. Board Waiver: The Town Board, at the time of issuance of the annual extraction permit, may waive or modify any of the provisions in this section or impose additional requirements if it finds that the plan of operation or other materials submitted with the application or other factors make appropriate more suitable measures for standards consistent with the public health, safety and welfare.
8. Compliance With the EAW or EIS: The township shall determine permit conditions and requirements that address issues and potential impacts that include, but are not limited to, those described in the EAW or EIS. The Town Board may require additional studies or information on any issues that the council determines were not adequately addressed in the EAW or EIS because the EAW or EIS does not contain sufficient detail for permitting purposes, because the proposed means of mitigation have changed, because new mitigation techniques are available, because new information has been discovered, or for any other reason.

F. Financial Surety

The Town Board shall require the applicant or owner of the premises on which the excavation operation is located to post a surety with a surety acceptable to the township, cash escrow, performance bond or letter of credit ("security") in an amount and source determined by the city council, in favor of the township, conditioned to pay the city the costs and expense of repairing any streets where

such repair work is made necessary by the special burden resulting from hauling and travel, and removing material from any pit or excavation, and conducting required rehabilitation and conditioned further to comply with all the requirements of this section and the particular extraction permit, and to pay any expense the city may incur by reason of doing anything required to be done by any applicant to whom a permit is issued. The security shall remain in full force and effect for a minimum period of one year after expiration of the extraction permit to guarantee the required rehabilitation as well as the other requirements herein provided. The surety bond will be based on the number of acres requested within the annual renewal extraction permit, the number of acres that have not been reclaimed to the end use grading plan elevations, and an amount that can be immediately withdrawn for the special burden of street repair or to replace insufficient landscaping. Surety for unfulfilled rehabilitation measures will be determined and a security will be required as long as the rehabilitation measures are not completed.

G. Insurance

The permittee shall maintain public liability insurance and automobile liability insurance in order to cover claims for injuries, wrongful death, and property damage. The town board shall determine the appropriate amount of liability insurance during the annual permit renewal.

H. Reimbursement of Township Costs

The applicant shall reimburse the township for all out-of-pocket expenses incurred during the review of the application, public hearings, preparation of documents, inspections and enforcement of the ordinance. The applicant to pay for the third-party review of application items and for submittal requirements like groundwater monitoring. The cost of periodic inspections for the purpose of determining that the provisions of the extraction permit and this section are being followed. The township may retain consultants at the applicant's expense to evaluate the application requirements, monitoring and testing results.

I. Enforcement

1. Notice of Violation: Whenever the township finds that the permittee has violated a prohibition or failed to meet a requirement of this section, the authorized enforcement agency may order compliance by written notice of violation to the permittee. Such notice may require, without limitation:

- a. The performance of monitoring, analysis, and reporting;
- b. That violating practices or operations shall cease and desist;
- c. The abatement or remediation of contamination or hazards and the restoration of any affected property;
- d. The notice shall state that the determination of violation may be appealed to the township administrator by filing with the township clerk a written notice of appeal within seven (7) calendar days of service of the notice of violation.

2. Appeal Of Notice Of Violation: Upon receiving a notice of violation, the permittee may appeal the determination of the authorized enforcement agency. The notice of appeal must be received by the township clerk within seven (7) calendar days from the date of the notice of violation. Hearing on the appeal before the township administrator or the township administrator's designee shall take place

within seven (7) calendar days from the date of receipt of the notice of appeal. The decision of the township administrator or city administrator's designee shall be final.

3. Enforcement Measures After Appeal: If the violation had not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within fifteen (15) days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

4. Cost Of Abatement Of The Violation: Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority, the enforcement agency may levy the charges as a special assessment against the property, which assessments shall constitute a lien on the property for the amount of the assessment. The permittee violating any of the provisions of this section shall become liable to the city by reason of such violation.

5. Legal Action: It shall be unlawful for the permittee to violate any provision or fail to comply with any of the requirements of this section. If the permittee has violated and continues to violate the provisions of this section, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the permittee from activities which would create further violations or compelling the permittee to perform abatement or remediation of the violation or seek any other available remedy in law or equity.

6. Compensatory Action: In lieu of enforcement proceedings, penalties, and remedies authorized by this section, the authorized enforcement agency and violator may agree on alternative compensatory actions.

7. Nuisance: In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this section is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

8. Criminal Prosecution: The permittee that has violated or continues to violate this section shall be liable to criminal prosecution to the fullest extent of the law and shall be subject to a criminal penalty in accordance with this code. The authorized enforcement agency may recover all attorney fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses.

9. Suspension Or Revocation Of Permit:

- a. The Town Board may suspend or revoke the interim use permit issued under this section upon a finding of a violation of any of the provisions of this section or violation of any condition of the annual operating permit.
- b. A revocation or suspension by the Town Board shall be preceded by written notice to the permittee and a public hearing. The written notice shall give at least eight (8) days' notice of the time and place of the hearing and shall state the nature of the charges against the permittee. The notice may be served upon the permittee personally or by United States mail addressed to the most recent address in license application.
- a.c. A revocation or suspension by the Town Board may occur upon determination that the facility has been inactive.

7.20 Sexually-Oriented Business.

A. Purpose.

The purpose of this provision of the Township's Zoning Ordinance is to prescribe licensing requirements for and regulations of sexually-oriented businesses in order to protect the general health, safety and welfare.

B. Findings of the Town Board.

The Board of the Castle Rock Township makes the following findings regarding the need to license sexually-oriented businesses. The findings are based upon the experiences of other municipalities where such businesses have located, as previously considered by the Town Board in adopting its Zoning Code provisions regulating the location of adult entertainment facilities. The Board finds:

1. Sexually-oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, taxing city crime-prevention programs and law enforcement services, as well as causing increased costs for prosecution services.
2. Sexually-oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.
3. ~~Sexually oriented businesses can increase the risk of exposure to communicable diseases including but not limited to Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public.~~
- 4.3. Sexually-oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.
- 5.4. The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.

C. Conclusions of the Town Board.

In direct furtherance of the substantial goals of public health, safety, and welfare, the Town Board adopts the following licensing regulations,

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recognizing that it has a great interest in the promotion of health and the prevention of criminal activity. It is not the intent of this Section to inhibit the freedom of speech component of sexually-oriented businesses; instead, this Section represents a balancing of competing interests: reduced criminal activity through the regulation of sexually-oriented businesses versus the protected rights of participants in sexually-oriented businesses and their patrons. Thus, this Section is designed to alleviate undesirable social problems that accompany sexually-oriented businesses without curtailing the constitutionally protected expression.

D. Definitions.

1. **Adult Body Painting Studio** - An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such a body is wholly or partially nude in terms of specified anatomical areas as defined herein.
2. **Adult Book Store** - An establishment used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tapes, videotapes, motion picture films, CDs (compact discs), DVDs (digital video disc) or any other form of recording, if (1) the business is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age; and (2) 25 percent or more of the business' gross receipts during any calendar month are derived from items, merchandise, or other materials distinguished or characterized by an emphasis on material depicting, describing, or relating to specified sexual activities or specified anatomical areas; or (3) 25 percent or more of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) is devoted to items, merchandise, or other materials distinguished or characterized by an emphasis on material depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas.
3. **Adult Companionship Establishment** - A companionship establishment which excludes minors by reason of age, or which provides the service for a fee of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas as defined herein.
4. **Adult Entertainment Facility** – A building or space wherein may be observed live presentation or entertainment

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distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein.

5. **Adult Establishment** – (1) Any business that is conducted exclusively for the patronage of adults and as to which minors are excluded from patronage either by operation of law or by the owners of the business; and (2) Any business that (i) derives 25 percent or more of its gross receipts during any calendar month from, or (ii) devotes 25 percent or more of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas.
6. **Adult Mini Motion Picture Theater** – A building or space with a capacity of fewer than 50 persons used for presenting material distinguished or characterized by an emphasis on matters, depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein. The phrase "used for" in this definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.
7. **Adult Modeling Studio** – An establishment whose major business is the provision to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities as defined herein or display specified anatomical areas as defined herein while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.
8. **Adult Motion Picture Theater** – A building or space with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein. The phrase "used for" in this definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.
9. **Adult Novelty Business** – Any business that meets any of the following criteria:

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- a. It offers for sale items from any two of the following categories: sexually oriented media; items or merchandise depicting specified sexual activities or specified anatomical areas; or devices which either stimulate human genitals or are designed for sexual stimulation; lingerie; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; and the combination of such items constitutes 25 percent or more than the stock-in-trade of the business or occupies 25 percent or more of the gross public floor area of the business or the sale of such items constitutes 25 percent or more of its gross receipts during any calendar month; or
- b. 5 percent or more of the stock-in-trade of the business consists of items or merchandise depicting specified sexual activities or specified anatomical areas; or devices which either stimulate human genitals or are designed for sexual stimulation; or
- c. 5 percent or more of the gross public floor area of the business is devoted to the display of items or merchandise depicting specified sexual activities or specified anatomical areas or devices which either stimulate human genitals or are designed for sexual stimulation; or
- d. It advertises or holds itself out in any forum as "XXX," "adult," "sex," or otherwise as an adult establishment.

10. Adult Sauna – A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas as defined herein.

11. Booths, Stalls, or Partitioned Portions of a Room or Individual Room
-
a. Enclosures specifically offered to persons for a fee or as an incident to performing high-risk sexual conduct; or

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b. Enclosures which are part of a business operated on the premises which offer movies or other entertainment to be viewed within the enclosure, including enclosures wherein movies or other entertainment is dispensed for a fee.

The phrase "booths, stalls, or partitioned portions of a room or individual rooms" does not mean enclosures which are private offices used by the owners, managers, or persons employed by the premises for attending to the tasks of their employment, and which are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing movies or other entertainment for a fee, and are not open to any persons other than employees.

12. Town- Township of Castle Rock
13. Clean - The absence of dirt, grease, rubbish, garbage, bodily excretions, and other unsanitary matter.
14. Doors, Curtains or Portal Partitions - Full, complete, nontransparent closure devices through which one cannot see or view activity taking place within the enclosure.
15. Fondle or Caress – An affectionate touching, rubbing or stroking with the intent to sexually arouse or excite.
16. Good Repair - Free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.
17. Health Inspectors - Inspectors employed by the County of Dakota or their agents.
18. Licensed Facility – Any premises requiring a license under this Section.
19. Minor- Any natural person under the age of eighteen (18) years.
20. Nudity - The showing of the human male or female genitals or pubic area with less than fully opaque covering; the showing of the female breast with less than a fully opaque covering below a point immediately above the top of the areola; or the depiction or showing of the covered male genitals in a discernibly turgid state.
21. Open to an Adjacent Public Room so That The Area Inside is Visible to Persons in the Adjacent Public Room - Either the absence of any entire "door, curtain or portal partition" or a door or other device

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which is made of clear, transparent material such as a glass, plexi-glass or other similar material meeting building code and safety standards, which permits the activity inside the enclosure to be entirely viewed or seen by persons outside the enclosure.

- 22. Patron – A customer of a sexually-oriented business.
- 23. Person - one or more natural persons; a partnerships, including a limited partnership; a corporation, including a foreign, domestic, or nonprofit corporation; a trust; a political subdivision of the State; or any other business organization.
- 24. Sexually-Oriented Business – An adult body painting studio, adult book store, adult companionship establishment, adult entertainment facility, adult establishment, adult mini motion picture theater, adult modeling studio, adult motion picture theater, adult novelty business, or adult sauna as herein defined.

25. Specified Anatomical Areas –

- a. Less than completely and opaquely covered;
 - (1) human genitals, pubic region or pubic hair; or
 - (2) buttocks; or
 - (3) female breast or breasts below a point immediately above the top of the areola; or
 - (4) any combination of the foregoing.
- b. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

26. Specified Sexual Activities – Include the following:

- a. Human genitals in a discernible state of sexual stimulation or arousal;
- b. Acts of human masturbation, sexual intercourse, or sodomy;
- c. Fondling or other erotic touching of human genitals, pubic region or pubic hair, buttocks or female breast or breasts; or
- d. Any combination of the foregoing.

E. License Required.

No person shall own or operate a sexually-oriented business within the Town without first obtaining and having in effect a license issued by the Town pursuant to this Section.

F. License Application.

The application for a license under this Section shall be made on a form supplied by the Town Clerk and shall provide the following information:

1. For all applicants:

- a. Whether the applicant is a natural-person, corporation, partnership, or other form of organization.
- b. The legal description of the premises to be licensed, along with a floor plan of the premises. The floor plan of the premises shall detail all internal operations and activities, including a statement of the total floor space occupied by the business. The floor plan need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
- c. The name and street address of the business. If the business is to be conducted under a designation, name, or style other than the name of the applicant, a certified copy of the certificate required by Minn. Stat. §333.01 shall be submitted.
- d. All licensed businesses under this Section shall have a designated individual in charge of the business and the application shall include all information as is required for a natural-person applicant to be provided for the business's designated individual in charge of the business.

2. If the applicant is a natural-person:

- a. The name, place and date of birth, street and city address, and phone number of the applicant.
- b. Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places where used.
- c. The street and city addresses at which the applicant has lived during the preceding two (2) years.
- d. The type, name and location of every business or occupation in which the applicant has been engaged during the preceding

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two (2) years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding two (2) years.

- e. Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a petty misdemeanor traffic ordinance. If so, the applicant shall furnish information as to the time, place, and offense for which convictions were made.

3. If the applicant is a partnership:

- a. The name(s) and address(es) of all general partners and all of the information concerning each general partner that is required of applicants in subpart B of this Section.
- b. The name(s) of the managing partner(s) and the interest of each partner in the business.
- c. A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to Minn. Stat. §333.01, a certified copy of such certificate shall be attached to the application.

4. If the applicant is a corporation or other organization:

- a. The name of the corporation or business form, and if incorporated, the state of incorporation.
- b. A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement, and By-laws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by Minn. Stat. §303.06, shall be attached.

G. Application Execution and Verification.

- 1. If the application is that of a natural-person, the application shall be signed and sworn to by that person; if of a corporation, by an officer thereof; if of a partnership, by one of the general partners; if of an unincorporated association, by the manager or managing officer thereof.
- 2. Applications shall be submitted to the Town Clerk, along with the required license fee. Within twenty (20) calendar days of receipt of a

completed application and payment of all licensing application fees, the Town Clerk or designee shall verify any and all of the information provided by the applicant in the application and may order a criminal background check and investigation to assure compliance with this Section.

H. Application Consideration.

No later than fifteen (15) business days after the completion of the license application verification and investigation, the Town Clerk shall accept or deny the license application in accordance with this Section. The Town Clerk may deny a license application on the grounds that the proposed licensed premises does not meet the Town's zoning regulations, the applicant or proposed licensed premises is not eligible for a license as set forth herein or for other grounds as are set forth in this Section.

If the application is denied, the Town Clerk shall notify the applicant of the determination in writing. The notice shall be mailed by U.S. mail to the applicant at the address provided on the application form.

I. Fees.

1. Application Fee.

- a. The license application fee shall be in an amount as duly adopted by the Town Board.
- b. The license application fee shall be paid in full before the application for a license is accepted. All fees shall be paid to the Town Clerk for deposit into the general fund of the City. Upon rejection of any application for a license or upon withdrawal of application before acceptance by the Town Clerk, the license fee shall be refunded to the applicant.
- c. When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be the first day of the month immediately following the date of approval of the license by the Town Board or upon the date a Certificate of Occupancy is issued for the building.

2. Investigation Fee. An applicant for any license under this Section shall deposit with the Town Clerk, at the time an application is submitted, an investigation fee, the amount of which shall be duly adopted by the Town Board, to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Section. The investigation fee shall be nonrefundable.

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J. Persons and Locations Ineligible for a License.

The Town Clerk shall deny a license application under this Section to an applicant if one (1) or more of the following exist:

1. The applicant is a minor at the time the application is submitted;
2. The applicant failed to supply all of the information requested on the license application;
3. The applicant gave false, fraudulent, misleading, or untruthful information on the license application;
4. The applicant has had a sexually-oriented license revoked within a 36-month period immediately preceding the date the application was submitted;
5. Within five (5) years immediately preceding the date of application, the applicant or its designated operating manager, has had a conviction of a felony or a gross misdemeanor or misdemeanor relating to sex offenses, obscenity offenses, or adult uses or a conviction of an offense resulting in a reduced charge from original charges relating to sex offenses, obscenity offenses, or adult uses;
6. The sexually-oriented business does not meet all of the zoning requirements prescribed in the zoning regulations in this Ordinance;
7. The premises to be licensed as a sexually-oriented business is currently licensed by the Town as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages; or
8. The real property on which the licensed premises is proposed to be located has outstanding and delinquent property taxes or assessments due and owing.
9. The applicant has not paid the license and investigation fees required.

K. Renewal Application.

1. All licenses issued under this section shall be effective for a duration of one (1) year commencing with the date of approval by the Town Board and expiring on December 31st each year. An application for the renewal of an existing license shall be submitted to the Clerk at

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least sixty (60) calendar days prior to the expiration date of the license.

2. Within twenty (20) calendar days of receipt by the Clerk of a fully completed renewal application, the Town Clerk or designee shall take action on the license renewal application in the same manner as an initial license application.

L. General License Requirements.

1. Posting of License. A license issued under this Section shall be posted in a conspicuous place in the premises for which it is issued.
2. Effect of License. A license issued under this Section is only effective for the compact and contiguous space specified in the approved. The license is non-transferable.
3. Maintenance of Order. A licensee under this Part shall be responsible for the conduct of the business being operated and shall not allow any illegal activity to take place on or near the licensed premises, including but not limited to prostitution, public indecency, indecent exposure, disorderly conduct, or the sale or use of illegal drugs. Every act or omission by an employee or independent contractor of the licensee constituting a violation of this Part shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the employee's or independent contractor's conduct.
4. Special Requirements for Live Adult Entertainment.
 - a. All performers, dancers, and persons providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where entertainment can be seen by patrons, customers or spectators shall:
 - (1) Provide social entertainment on a platform intended for that purpose which is raised at least two feet from the level of the floor;
 - (2) Provide said entertainment at a distance no closer than six (6) feet to any patron;
 - (3) Not fondle or caress any patron;

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(4) Not solicit any pay or gratuity from any patron.

b. No patron, customer or spectator of a licensed facility providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas shall:

- (1) Fondle or caress any performer, dancer or other person, providing live entertainment;
- (2) Directly pay or give any gratuity to any performer, dancer or other person providing live entertainment.

5. Hours of Operation. A licensee shall not be open for business to the public during the following hours: Not open before 5:30 a.m. or after 1:00 a.m.

6. Minors Prohibited. No licensee shall allow minors to enter the licensed premises. The licensee shall request proof of age of all persons to enter the licensed premises. Proof of age may be established only by: a valid driver's license or identification card issued by Minnesota, another state; or a province of Canada, and including the photograph and date of birth of the licensed person; a valid military identification card issued by the United States Department of Defense; or in the case of a foreign national from a nation other than Canada, a valid passport.

7. Sanitation and Health Requirements.

a. Partitions Facilitating Sexual Activity. A licensee under this Part shall not allow any partition between a subdivision, portion, or part of the licensed premises having any aperture which is designed or constructed to facilitate sexual intercourse, sodomy, or fondling or other erotic touching of human genitals, pubic region or pubic hair, buttocks, or female breast between persons on either side of the partition.

b. Restrictions on Booths, Stalls, and Partitions. A licensee under this Part shall not allow or have on the licensed premises or adjoining areas any booths, stalls, or partitions used for the viewing of motion pictures or other forms of entertainment that have doors, curtains, or portal partitions, unless such booths, stalls, or partitions have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. Such areas shall be lighted in a manner that the persons in the area used for

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viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms. Seating or reclining surfaces inside any booths, stalls, or partitions used for the viewing of motion pictures or other forms of entertainment including but not limited to live entertainment shall be prohibited.

- c. **Authority of Health Inspectors.** The Dakota County Health Inspectors shall have the authority to inspect or cause to be inspected the licensed premises and adjoining areas in order to ascertain the source of infection or reduce the spread of communicable diseases. Such officials shall have the authority to issue appropriate orders to the licensee regarding health and sanitation.
- d. **Limitation on Number of Persons in Partitioned Areas.** Any booths, stalls, or partitioned portions of a room or individual rooms used for the viewing of motion pictures or other forms of entertainment, including but not limited, to live entertainment shall not be occupied by more than one (1) person at a time.
- e. **General Sanitation Requirements.** All sexually-oriented business shall at all times be kept clean as defined herein and in a state of good repair as defined herein.
- f. **Duty to Supervise.** The licensee shall not permit specified sexual activities as defined herein to take place on the premises and shall have an affirmative duty to supervise the licensed premises and prevent such activities.

8. **Alcoholic Beverages Prohibited. No alcoholic beverages shall be sold, provided, dispensed or permitted on the licensed premises.**

M. Sanctions for License Violations.

- 1. **Suspension.** The Town Board may suspend a license issued pursuant to this Section for up to sixty (60) days if the Town Board determines that a licensee has violated one or more of the following:
 - a. Fraud, misrepresentation, or false statement contained in a license application or a renewal application.
 - b. Fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.
 - c. Any violation of this Section or state law.

d. A licensee's criminal conviction that is directly related to the occupation or business licensed as defined by Minnesota Statutes, Section 364.03, Subd.2, provided that the licensee cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation or business as defined by Minnesota Statutes, Section 364.03, Subd. 3.

e. Conducting the licensed business in an unlawful manner or in such a manner as to constitute a public nuisance, or as to adversely affect the health, safety, or general welfare of the community.

2. Revocation. The Town Board may revoke a license issued under this Section if the Town Board determines that the licensee violated one or more of the following:

a. Licensee's license was suspended in the preceding twenty-four (24) months and an additional cause for suspension as detailed in (A) above is found by the Town Board to have occurred.

b. Fraud, misrepresentation, or false statement contained in a license application or a renewal application.

c. The Licensee or an employee or independent contractor of the licensee has knowingly allowed possession, use, or sale of alcohol or illegal controlled substances on the licensed premises.

d. Licensee or an employee or independent contractor of the licensee has knowingly allowed prostitution on the licensed premises;

e. Licensee violated any of the provisions of Minnesota Statutes Section 617.241-617.299 relating to the illegal distribution, possession, or sale of obscene materials.

f. Licensee or an employee knowingly operated the sexually-oriented business during a period of time when the licensee's license was suspended.

g. Licensee has been convicted of an offense which makes one ineligible for a license hereunder for which the time period required has not elapsed.

- h. On two or more occasions within a 12-month period, a person or persons committed an offense which makes one ineligible for a license hereunder occurring in or on the licensed premises for which a conviction has been obtained, and the person or persons were employees or independent contractors of the licensee at the time the offenses were committed.
- i. Licensee or an employee or independent contractor of the licensee has knowingly allowed specified sexual activities to occur in or on the licensed premises; or
- j. Licensee is delinquent in payment to the City, County, State or Federal Governments for hotel occupancy taxes, ad valorem taxes, sales taxes, property tax or other government imposed financial obligation.

7.16

7.21 Public Nuisances

To further the Township's interest in providing compatibility of permitted, conditional and accessory uses and protecting the public health, safety and welfare of its residents, all uses within all zoning districts shall be subject to the following regulations:

A.N. Odors.

The discharge of odors shall not exceed the air quality standards and rules adopted by the Minnesota Pollution Control Agency.

B.O. Toxic and Noxious Matter.

All toxic and noxious matters, including radioactivity, emitted from a use shall not exceed the standards and rules adopted by the Minnesota Pollution Control Agency. In the event the toxic matter being considered is not specifically regulated by Minnesota Pollution Control Agency, 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 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 Township that the proposed levels will be safe to the general population.

C.P. Smoke, Particulate Matter and Exhaust Emission.

No use shall emit smoke, particulate matter, or exhaust that exceeds those standards and rules adopted by the Minnesota Pollution Control Agency.

D.Q. Noise.

No noise shall be permitted or caused to be permitted that exceed the standards and rules adopted by the Minnesota Pollution Control Agency.

E.R. Vibrations, Heat and Glare.

No earth shaking vibration(s) or heat or glare emissions caused or produced by any use shall exceed the standards and rules adopted by the Minnesota Pollution Control Agency.

F.S. Electrical Emissions.

No electrical emissions caused or produced by any use shall exceed the standards and rules adopted by any Minnesota or federal agency.

G.T. Waste material.

Any waste created by or resulting from any use shall be stored, handled and disposed in accordance with all federal, state and county laws and regulations governing the type of waste stored, handled or disposed within the Township.

H.U. Miscellaneous Nuisances.

1. *Declaration of public nuisances.* A violation of the following shall constitute a public nuisance and subject to the abatement requirement set forth herein:

- a. It shall be unlawful for any person to store or keep any vehicle of a type requiring registration or a license to operate on the public highway without current registration or license attached thereto whether such vehicle be dismantled or not outside of an enclosed building in residential or agricultural districts.
- b. It shall be unlawful to create or maintain a junkyard or a vehicle, appliance, machinery or other equipment dismantling yard, unless otherwise permitted in this Ordinance.
- c. It shall be unlawful to cause or permit the effluence from any cesspool, septic tank, drain field or human sewage disposal system to discharge upon the surface of the ground, or dumping the contents thereof at any place except as authorized.
- d. It shall be unlawful to dump, place, or throw any waste or permit any waste to enter into any public well, cistern, stream,

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lake, canal, or body of water by sewage, industrial waste, or other substances.

- e. It shall be unlawful for carcasses of animals not buried, destroyed or otherwise properly disposed of within 48 hours after death.
- f. It shall be unlawful to place, deposit or throw on any street, alley, road, highway, sidewalk, or other public property any glass, tacks, nails, bottles, or other objects which may injure any person or animal or damage any property when passing over the same.
- g. It shall be unlawful to keep, store or maintain outdoors any refrigerator, freezer or other container with doors which fasten automatically when closed and of sufficient size to retain any person, unless the doors, lids, hinges, or latches are removed or is locked closed.

ah All waste material, debris, refuse, or garbage shall be kept in an enclosed building or be properly contained in a closed, watertight container designed for such purposes. No waste, debris, refuse or garbage shall be stored on the property for more than 14 days. The owner of vacant land shall be responsible for keeping such land free of refuse.

2. *Abatement of public nuisance.*

- a. It shall be the primary responsibility of a property owner or occupant to abate any public nuisance as declared in this section which exists on the owner's property or abutting thereto.
- b. Upon the township's service by U.S. mail to the property address (and to the property owner if different than the property address) of notice of the public nuisance and required abatement, the property owner or occupant shall remove or otherwise abate the public nuisance within ten (10)(90)-days of the date of the notice. However, if the Township determines that the condition presents a risk to public safety, health, or welfare, the Township may require a shorter abatement period as reasonably necessary. If conditions threaten or cause harm to adjacent properties, the Township may require immediate removal or abatement. Upon the property owner or occupant's failure to remove or otherwise abate the public nuisance, the township may perform the work to abate the public nuisance.

3. *Costs of abatement.* The owner and occupant of property on or adjacent

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Commented [LD26]: If public safety issue they can demand less days to remove
If harmful to adjacent properties then they demand immediate removal

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thereto which work has been performed by the township to abate the nuisance shall be personally liable for the cost of the township's work. The township shall prepare and mail an invoice of the charges for the cost of the work to the owner and occupant, and the charges shall be

immediately due and payable to the township. Unpaid charges for a work shall be subject to monthly service charges (late fee/penalty) until paid in full or assessed as provided herein.

4. *Special assessment for unpaid charges.* Any unpaid charges for work performed by the township to abate a public nuisance as provided herein shall be specially assessed against the property benefitted in accordance with M.S. § 429.101.

[7.17](#)

[7.22](#) Animal Control

[A.V.](#) Running at Large Prohibited.

It shall be deemed a public nuisance for any dog, cat or other domestic animal to run at large within the Township. The person who owns, harbors or keeps the animal found to be running at large is in violation of this subsection. Dogs on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the Town Board has posted an area with signs reading "Dogs Prohibited," or other applicable signs. Any person who shall violate this subsection shall not be considered guilty of a misdemeanor.

[B.W.](#) Impounding.

Any law enforcement officer may impound the animal found running at large and shall give notice of the impounding to the owner of such dog or other animal, if known. If the owner is unknown, the officer shall post notice at the Town Hall that if the dog or other animal is not claimed within the time specified in subsection C., below, it will be sold or otherwise disposed of.

[C.](#) Reclaiming.

Any animal impounded under this subsection shall be kept at the Township's designated pound at least five regular business days, unless the animal is a dangerous animal as defined under subsection J., below. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this Ordinance or established from time to time by resolution of the Town Board:

1. *Payment of the release fee. The release fee shall be as established from time to time by resolution of the Town Board, but not less than \$25.00 the first time an animal is impounded, \$50.00 the second time it is impounded, and \$75.00 for the third and each subsequent time the same animal is impounded. For the purpose of a release permit, any change in the registered ownership of an animal subsequent to*

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~~its impoundment and release shall reset that animal's impoundment count to the beginning of the fee scale;~~

2. ~~Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in said pound; and~~
3. ~~If a dog is unlicensed, payment of a regular license fee if required and valid certificate of vaccination for rabies and distemper shots is required.~~

D. Unclaimed Animals.

~~At the expiration of the times established in subsection C., above, if the animal has not been reclaimed in accordance with the provisions of this Section, the officer appointed to enforce this Section may let any person claim the animal by complying with all provisions in this Section, or the officer may sell the animal to the University of Minnesota or may cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this subsection shall be payable to the Township Clerk.~~

E.X. Vaccination.

1. All dogs kept harbored, maintained, or transported within the Township shall be vaccinated at least once every three years by a licensed veterinarian for rabies with a live modified vaccine and distemper.
2. A certificate of vaccination must be kept on the premises of the owner, on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description, and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the Town Clerk or a law enforcement officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the Town Clerk or sheriff. Failure to do so shall be deemed a violation of this subsection.

F.Y. Biting Animals.

Any domestic animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the Town Pound for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of such time if healthy and

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Commented [LD27]: Removing Reclaiming and Unclaimed Animals section because they determined it does not apply to them based on how the pound system works and where checks go

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free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for such confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of Dakota County, and provide immediate proof of such confinement in such manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

G.Z. Non-Domestic Animals.

It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic, non-farm animal within the Town limits. Any owner of such an animal at the time of adoption of this Ordinance shall have thirty days in which to remove the animal from the Town after which time the Town may impound the animal as provided for in this Section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the Town as part of an operating zoo, veterinarian clinic, scientific research laboratory, or licensed show or exhibition. A non-domestic, non-farm animal is any mammal, reptile, bird or fowl that is not a domesticated animal and commonly kept for domestic purposes, such as pets, or for food and products, or for work use.

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H.AA. Nuisances.

Animals kept contrary to this Section are subject to impoundment.

1. Habitual Barking. It shall be unlawful for any person to keep or harbor a dog, which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least three minutes with less than one minute of interruption. Such barking must also be audible off of the owner or caretaker's premises.
2. Damage to Property. It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage. Any animal covered by this subsection may be impounded as provided in this Section or a complaint may be issued by anyone aggrieved by an animal under this Section against the owner of the animal for prosecution under this Section.
3. Cleaning Up Litter. The owner of any animal, or the person having the custody or control of any animal, shall be responsible for

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immediately cleaning up any feces of the animal and disposing of such feces in a sanitary manner whether on their own property, on the property of others, or on public property.

J. Diseased Animals.

1. Running at Large. No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the Town, any animal which is diseased so as to be a danger to the health and safety of the Town, even though the animal be properly licensed under this Section.
2. Confinement. Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person or law enforcement officer. The law enforcement officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in such a manner so as to be a danger to the health and safety of the Town, the officer may cause such animal to be destroyed upon the consent of the owner or a court order. The owner or keeper of the animal killed under this subsection shall be liable for at least \$75.00 to cover the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.
3. Release. If the animal, upon examination, is not found to be diseased within the meaning of this subsection, the animal shall be released to the owner or keeper free of charge.

L. Interference with Officers.

No person shall in any manner impede, hinder, or interfere with any person authorized by the Township to capture dogs or other animals and convey them to the pound while engaged in such operation. Nor shall any unauthorized person break open the pound or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this Section, or in any other manner to interfere with or hinder such officer in the discharge of his or her duties under this Section.

M. Kennels.

No kennels are permitted within the Township, except as allowed in designated zoning districts and upon the issuance of a conditional use permit in accordance with the regulations thereof.

N. Farm Animals.

The keeping of farm animals shall require a minimum lot size of two (2) acres and AG Agriculture zoning. The number of farm animals allowed on any AG property shall be governed by the following:

| | |
|---------------------------|-----------------------------|
| 2.0 to 5.0 acres: | no more than 3 animal units |
| 5.01 acres to 10.0 acres: | no more than 6 animal units |
| More than 10.0 acres: | see feedlot standards |

7.18

7.23 Solar Electric Systems

A. Retail Solar Electric Systems

1. Retail solar electric systems are allowed in all zoning districts through the building permit application process.
2. Retail solar electric systems in residential districts shall be limited to roof top systems. Roof top solar electric systems shall:
 - a. Be mounted parallel to the plane of the roof;
 - b. Shall not be located closer than 3 feet to any roof edge or peak; and
 - c. Shall not occupy more than 75% of the area of the roof plane to which it is affixed.
3. Retail solar electric systems located in the AG Agriculture District may include roof top systems and ground mounted systems.
 - a. Roof top retail electric systems:
 - i. Shall not project more than one foot above the plane of the roof;
 - ii. Shall not be located closer than 3 feet to any roof edge, peak, or valley; and
 - iii. Shall not occupy more than 75% of the area of the roof plan to which it is affixed.
 - iv. Shall not require a permit for an agricultural shed.
 - b. Ground mounted retail electric systems:
 - i. Shall be 130 feet from the centerlines of public roadways;
 - ii. Shall be 50 feet from property lines adjacent to properties without a residential dwelling;
 - iii. Shall be 100 feet from property lines adjacent to properties with a residential dwelling;
 - iv. Shall not exceed 15 feet in height;
 - v. Shall not be in any required setback; and
 - vi. Shall not exceed 5% lot coverage or 10,000 square feet, whichever is less. Square footage is calculated by the area encumbered by the outermost measurements of the solar equipment layout.
4. Retail solar electric systems located in the C/I Commercial/Industrial District may include retail roof top systems and ground mounted systems.
 - a. Roof top retail electric systems:
 - i. Shall not project more than 4 feet above the plane of the roof;

Commented [FN28]: Changes are the most recent ordinance other than recycling and a decommissioning plan. Recycling materials and a decommissioning plan are proposed as a result from "Harry Notes and Twp Issues List."

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and

- ii. Shall not be located closer than 6 feet to any outer roof edge.
- b. Ground mounted retail electric systems:
 - i. Shall be 130 feet from the centerlines of public roadways;
 - ii. Shall follow the setbacks required in the underlying zoning district;
 - iii. Shall not exceed 15 feet in height; and
 - iv. Shall not exceed 5% lot coverage or 10,000 square feet, whichever is less. Square footage is calculated by the area encumbered by the outermost measurements of the solar equipment layout.

B. Wholesale Solar Electric Systems. Wholesale solar electric systems require an Interim Use Permit and requirements under Section 8.08, and shall be limited to:

- 1. RR-I Rural Residential District and AG Agriculture Districts.
- 2. A maximum of 5% of land, to the nearest whole acre, within each section may be used for wholesale solar electric systems including area considered unbuildable or burdened by easements, floodplain, natural features, and similar encumbrances to be allowed by the Town Board. This percentage is inclusive of wholesale electric systems approved or constructed prior to this ordinance but shall not include land previously used for solar and returned to a state prior to solar development through decommissioning.
- 3. Wholesale solar electric systems shall be set back a minimum of
 - a. 1,500 feet from any adjacent residential dwelling; property line;
 - b. 130 feet from the centerlines of public roadways;
 - 50 feet from property lines adjacent to properties without a residential dwelling;
 - c. 100 feet from property lines without residential dwellings or areas deemed buildable; and adjacent to properties with a residential dwelling; and
 - d. 500 feet from any residential property line with or without areas deemed buildable. residential dwelling on an adjacent property.
 - e. All Switchyards and Substations require a Conditional Use Permit.
- 4. The maximum height of wholesale solar electric system equipment, structures and accessory appurtenances shall not exceed 15 feet.
- 5. Wholesale solar electric systems shall not be lighted, except for shrouded, downcast security lights on major equipment or storage buildings. Signage shall be limited to equipment labeling, security warnings and messages, entrance identification and directional signs, and a single site identification sign. No individual sign shall exceed thirty-six square feet in area or extend more than 15 feet in height.
- 6. In addition to the site plan requirements found in Section 5.05 and Section 7.23 (I) below, wholesale solar electric systems

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shall include the following details for any development process:

- a. Full sets of plans including:
- i. Site Plan(s) showing:
 - A. Access and maintenance roads;
 - B. Location of overhead and underground electrical lines;
 - C. Dimensions, location, and spacing of PV panels;
 - D. Lighting and signage;
 - E. Location of equipment and structures associated with the system;
 - F. Landscaping, including species; and
 - G. Location of a security fence of at least six feet high.
- ii. Grading plan and any applicable land disturbance or grading permits;
- iii. Stormwater management plan meeting the applicable watershed district requirements, as described in Section 7.23 (K);
- iv. Site inventory and analysis prior to construction, including:
 - A. Topography;
 - B. Tree inventory, including Diameter at Breast Height (DBH), species, height, and canopy diameter, and
 - C. Any notable natural features, including but not limited to water, wetlands, locations of endangered species habitats, and other similar elements.
 - b. Description of the racking method, including fixed or tracking technology;
 - c. Description and location of buildings, inverters, transformers, disconnects & combiners, and other structures and equipment;
 - d. Typical elevations or example photos of proposed solar arrays;
 - e. Decommissioning plan and site restoration plan, including:

Financial assurances accounting for inflation or the minimum amounts in the table below, whichever is greater, for the proposed life of the system to be issued as a performance bond or escrow to the benefit of the Township to facilitate complete decommissioning and restoration of the site in the event that the owner or operator does not decommission the system after abandonment or expiration of the IUP. The performance bond or escrow may be released back to the appropriate entity upon decommissioning the system according to the decommissioning plan:

| <u>Minimum Amounts for Initial Solar Farm Escrow Deposit or Surety</u> | |
|--|--|
| <u>Megawatts (MW) of Solar Energy Farm</u> | <u>Amount of Required Bond or Escrow</u> |
| <u>1 Megawatt or less</u> | <u>\$200,000</u> |
| <u>1.01-1.49 MW</u> | <u>\$250,000</u> |
| <u>1.5-1.99 MW</u> | <u>\$300,000</u> |
| <u>2.0-2.49 MW</u> | <u>\$350,000</u> |
| <u>2.5-2.99 MW</u> | <u>\$400,000</u> |
| <u>3.0-3.99 MW</u> | <u>\$450,000</u> |
| <u>4.0-4.99 MW</u> | <u>\$500,000</u> |
| <u>5.0-5.99 MW</u> | <u>\$550,000</u> |

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Note: After 5.99 MW, the amount will increase \$50,000 per every additional half MW.

- ii. Restoration of the property to the state prior to the solar system installation; and
- i. Proper recycling of the solar electric system materials and equipment, whenever possible.
- f. Landscape installed to surround around and within the perimeter of the project area, with the exception of access points and easements, and a Maintenance Plan for maintaining the landscape of the property, including:
 - i. Two rows of native trees along right of ways, with staggered placement, spaced to completely obscure the solar electric system and all associated structures and equipment from outside view, and native grasses;
 - B. First row of trees to be coniferous, to grow to at least 8 feet high and spaced to achieve complete horizontal screening, within 1 year of project commencement. 3 years of planting;
 - C. Second row of trees to be deciduous or coniferous, to grow at least 20 feet tall and spaced to achieve adequate screening, within 10 years of planting; and
 - D. Native grasses, or well-maintained grass, underneath trees and in spaces uncovered by trees to increase the level of screening;
- ii. Three rows of native trees along residential property lines, with staggered placement, spaced to completely obscure the solar electric system and all associated structures and equipment from outside view.
 - A. First row of trees to be planted along residential property lines prior to project commencement that obscure solar electric system and all associated structures and equipment from outside view.
 - B. Second row of trees to be coniferous, to grow to at least 8 feet high and spaced to achieve complete horizontal screening, within 1 year of project commencement.
 - C. Third row of trees to be deciduous or coniferous, to grow at least 20 feet tall and spaced to achieve adequate screening, within 10 years of planting; and
 - D. Establishment of an escrow account, as required by the Township and upon the advice of the Township Attorney, to cover the initial cost of tree installation and the monitoring, maintenance, and replacement of any trees that fail to survive; and
 - E. The escrow amount for required trees shall be assessed on a per-acre basis, as specified in the Township's fee schedule
- iii. Underneath solar panels, the development must use an erosion control method of vegetation, mulch, erosion control blankets or other effective geotextiles, or a similar method allowed by the Township; and
- iv. The Maintenance Plan for landscaping and maintenance of the site must include provisions for maintaining foliage, access roads, structure, solar panels, and any other associated equipment. The

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plan must include provisions and clarity on replacing dead or diseased foliage for the life of the project.

- C. No solar energy equipment or solar electric systems shall create or cause unreasonable glare on other property or public roadways. Unreasonable glare shall mean a public safety hazard or nuisance as determined by the Board of Supervisors or the appropriate roadway authority.
- D. No solar energy equipment or solar electric system shall create or constitute a public nuisance, as regulated in this Ordinance.
- E. Electric power lines within all ground mounted solar electric systems shall be buried underground, except as required by the utility and upon approval of the Town Board.
- F. All solar energy systems shall be consistent with applicable State Building Codes, State Electrical Codes, and State Plumbing Codes.
- G. All applicable solar energy equipment shall be certified by either the Underwriters Laboratories (UL) or Canadian Electrical Code (CSA 22.1), or the Solar Rating and Certification Corporation (SRCC) for thermal systems.
- H. All solar electric systems unused, abandoned or inoperable for more than twelve months shall be removed in accordance with the decommissioning plan required under Section 7.23 (I)(10) or (B)(5)(i), if applicable, or by the system owner or the property owner. Within a month of a request by the Township, the owner or operator of a solar electric system must provide proof that the system is active and contributing to the electrical grid.
- I. In addition to the Site Plan Review requirements of Section 5.05, all ground mounted solar electric system applications shall include the following details:
 - 1. Grading plan;
 - 2. Stormwater management plan;
 - 3. Location of access roads;
 - 4. Locations of overhead and underground electric lines;
 - 5. Dimensions, location and spacing of PV panels;
 - 6. Description of the racking method, including fixed or tracking technology;
 - 7. Description and location of buildings, inverters, transformers, disconnects & combiners, and other structures and equipment;
 - 8. Typical elevations or photos of sample solar arrays;
 - 9. Site lighting and signage; and
 - 10. Decommissioning plan and site restoration plan, including financial assurances.
- J. Fencing, landscaping, and other screening may be required for any ground mounted solar electric system. Deviations from dimensional standards (including setbacks) may be considered through public hearing procedures for permitting, based upon mitigation of off-site impacts through fencing, landscaping, screening, or other mitigation measures.
- K. All ground mounted solar electric systems shall prepare a stormwater management plan consistent with the corresponding watershed requirements: the Vermillion River Watershed "Water Resources Management Ordinance" or the North Cannon River Watershed Management Organization Model Stormwater Ordinance, "An Ordinance Establishing Erosion Control and Stormwater Management

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Requirements for Land Disturbances." Any site grading shall be accompanied by an erosion and sedimentation control plan consistent with Best Management Practices for control components.

L. All permit applications for ground mounted solar electric systems shall include a description of the vegetation or material under the solar system components and the method of ground care and vegetative maintenance.

M. If the Township's zoning regulations are amended and cause a solar electric system to become nonconforming, the change in zoning compliance does not invalidate the permit. The permittee must still remain in material compliance with all permit conditions that do not conflict with the amended requirements, including the termination date or event identified in the permit. The permit must still adhere to Section 8.08(b)(3) requirements, notwithstanding.

N. Decommissioning and Site Reclamation Plan

1. The application shall include a decommissioning plan that describes the following items:
 - i. The anticipated life of the solar electric system
 - ii. The anticipated manner in which the project will be decommissioned, including plans to recycle all components
 - iii. The anticipated site restoration actions
 - iv. The estimated decommissioning costs and restoration
2. The applicant shall provide the basis for estimates of net costs for decommissioning the site. The cost basis shall include a mechanism for calculating adjusted costs over the life of the project.
3. Restoration of reclamation activities shall include, but not limited to, the following:
 - i. Restoration of the preconstruction surface grade and soil profile after removal of structures, equipment, graveled areas and access roads.
 - ii. Re-vegetation of restored soil areas with crops, native seed mixed and plant species suitable to the area, consistent with County regulations.
 - iii. For any part of the project on leased property, the plan may incorporate agreements with the landowner regarding leaving access roads, fences, gates or repurposed buildings in place or regarding restoration of agricultural crops or forest resource land. Any use of remaining structures must be in conformance with existing regulations.
4. Following a twelve consecutive month period in which no electricity is generated, or if substantial action on construction or repairs to the project is discontinued for a period of twelve consecutive months, the permittee will have one year to complete decommissioning of the solar electric system. At the discretion of the Zoning AdministratorTown Board, the consecutive twelve month period that triggers decommissioning may be extended if the applicant demonstrates ongoing commitment to the project through activities such as but not

limited to making lease payments or documentation of ongoing maintenance or repairs.

- i. Decommissioning shall be completed in accordance with the approved decommissioning plan.
- ii. The land owner or tenant shall notify the ~~Zoning~~ Administrator Top Township when the project is discontinued and when decommissioning is complete.

O. The installation or operation of battery storage facilities in conjunction with wholesale solar electric systems is prohibited.

A.

- B. Wholesale solar electric systems shall be limited to the RR-1 Rural Residential District and AG Agriculture District.
- C. Retail solar electric systems in residential districts shall be limited to roof top systems. Roof top solar electric systems shall be mounted parallel to the plane of the roof, shall not extend more than one foot above the plane of the roof, shall not be located any closer than three feet from any side, top or bottom edge of the roof, and shall not occupy more than 75 per cent of the area of the roof plane it is affixed to.
- D. Retail solar electric systems located in the AG Agriculture District may include roof top systems and ground mounted systems. Roof top systems shall not extend more than one foot above the plane of the roof, shall not be located any closer than three feet from any side, top or bottom edge of the roof, and shall not occupy more than 75% of the area of the roof plane to which it is affixed. Ground mounted systems shall not exceed 15 feet in height, shall not be located in any required yard area, and shall not be located closer than 100 feet to an existing adjacent residence. Ground mounted systems shall not exceed 10% lot coverage or 10,000 square feet, whichever is less. Square footage is calculated by the area encumbered by the outermost measurements of the solar equipment layout.
- E. Retail solar electric systems located in the C/I Commercial/Industrial District may include retail roof top systems and ground mounted systems. Roof top systems shall not project more than four feet above the plane of the roof, nor be located closer than six feet from the outer edge of the roof top. Ground mounted systems shall not exceed 10% lot coverage or 10,000 square feet, whichever is less. Square footage is calculated by the area encumbered by the outermost measurements of the solar equipment layout.
- F. Wholesale solar electric systems shall be set back a minimum of 100 feet from the centerlines of roadways, a minimum of 50 feet from all property lines, and a minimum of 75 feet from any adjacent property residential dwelling. The maximum height of wholesale solar electric system equipment, structures and accessory appurtenances shall not exceed 15 feet. Wholesale solar electric

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systems shall be enclosed by a minimum six feet high security fence.

- G. Wholesale solar electric systems shall not be lighted, except for shrouded, downeast security lights on major equipment or storage buildings. Signage shall be limited to equipment labeling, security warnings and messages, entrance identification and directional signs, and a single site identification sign. No individual sign shall exceed thirty six square feet in area or extend more than 15 feet in height.
- H. No solar energy equipment or solar electric systems shall create or cause unreasonable glare on other property or public roadways. Unreasonable glare shall mean a public safety hazard as determined by the Board of Supervisors or the appropriate roadway authority.
- I. No solar electric system shall create or constitute a public nuisance, as regulated in this Ordinance.
- J. Electric power lines within all ground mounted solar electric systems shall be buried underground, except as required by the utility and upon approval of the Town Board.
- K. All solar energy systems shall be consistent with applicable State Building Codes, State Electrical Codes, and State Plumbing Codes.
- L. All applicable solar energy equipment shall be certified by either the Underwriters Laboratories (UL) or Canadian Electrical Code (CSA 22.1), or the Solar Rating and Certification Corporation (SRCC) for thermal systems.
- M. All solar electric systems unused, abandoned or inoperable for more than twelve months shall be removed in accordance with the decommissioning plan required under Section 7.21 (M)(10), if applicable, or by the system owner or the property owner.
- N. In addition to the Site Plan Review requirements of Section 5.05, ground mounted solar electric system applications shall include the following details:
 - 1. Grading plan.
 - 2. Stormwater management plan.
 - 3. Location of access roads.
 - 4. Locations of overhead and underground electric lines.
 - 5. Dimensions, location and spacing of PV panels.
 - 6. Description of the racking method, including fixed or tracking technology.
 - 7. Description and location of buildings, inverters, transformers, disconnects & combiners, and other structures and equipment.
 - 8. Typical elevations or photos of sample solar arrays.
 - 9. Site lighting and signage.
 - 10. Decommissioning plan and site restoration plan, including financial assurances.
- O. Fencing, landscaping, and other screening may be required for any ground mounted solar electric system. Deviations from dimensional standards (including setbacks) may be considered through public

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hearing procedures for permitting, based upon mitigation of off site impacts through fencing, landscaping, screening, or other mitigation measures.

- P. All ground mounted solar electric systems shall prepare a stormwater management plan consistent with the corresponding watershed requirements: the Vermillion River Watershed "Water Resources Management Ordinance" or the North Cannon River Watershed Management Organization Model Stormwater Ordinance, "An Ordinance Establishing Erosion Control and Stormwater Management Requirements for Land Disturbances." Any site grading shall be accompanied by an erosion and sedimentation control plan consistent with Best Management Practices for control components.
- Q. All permit applications for ground mounted solar electric systems shall include a description of the vegetation or material under the solar system components and the method of ground care and vegetative maintenance.
- R. Notwithstanding Section 8.08(b)(3), a change in the Township's zoning regulations which renders a solar electric system nonconforming shall not terminate the interim use permit issued for the solar electric system, provided the permit has not been revoked and the permittee remains in material compliance with all permit conditions. All permit conditions shall survive the change in the Township's zoning regulations including, but not limited to, the termination date or event identified in the permit.

SECTION VIII: ADMINISTRATION AND ENFORCEMENT

8.01 Enforcing Officer

The Township Building Inspector or other designee of the Town Board shall enforce this Ordinance and perform the following duties:

- A. The Town Board shall designate two of its members to act as the enforcing officers, who shall be vested with the authority to administer, interpret, and enforce the provisions of this section.
- B. Conduct inspections of buildings and use of land to determine compliance with the terms of this Ordinance.
- A.C. All permits and plan reviews shall be subject to reimbursements for city costs, including but limited to enforcement, engineering, consulting and legal fees.

Commented [LD33]: Asking Attorney who is town code enforcement officer?

8.02 Maintenance of Records

The Town Clerk shall perform the following duties:

- A. Maintain permanent and current records of this Ordinance, including but not limited to: all maps, amendments, special uses, permits, appeals, and applications.
- B. Receive, file, and forward all applications for permits, amendments, appeals, special uses, or other matters to the designated official bodies.

8.03 Appeals and the Board of Adjustment and Appeals

- A. The Town Board of Castle Rock shall, pursuant to the authority contained in Minnesota Statutes 462.354, Subd. 2, act as the Board of Adjustment and Appeals.
- B. The Board of Adjustment and Appeals shall have the power with respect to this Ordinance:
 1. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of this Ordinance.
 2. To hear requests for variances from the literal provisions of this Ordinance in accordance with the provisions regulating variances in this Chapter.
- C. The Board may not permit ~~as~~ a variance that allows any use that is not permitted under this Ordinance for property in the zone where the affected person's land is located. The Board may impose conditions in the granting of variances to ensure compliance and to protect adjacent properties.
- ~~C. Hearings by the Board of Adjustment and Appeals shall be held within such time and upon such notice to interested parties as is provided herein. The Board shall,~~

Commented [LD34]: Looked at Multiple city codes for wording = **Mankato Tw Code:**
1. Enforcement. It shall be the duty of the Land Use Administrator to enforce this Ordinance through the proper legal channels.

Jordan City Code: Enforcing Officer: The council shall appoint a zoning administrator who shall enforce this subchapter and shall...

Lime TW: Township officers are appointed

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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.

D. The Board of Adjustment and Appeals may reverse, affirm wholly or partly, or may modify the order, requirement, decision, or determination and shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The reasons for the Board's decision shall be stated. The decision of such Board shall not be final and any person having an interest affected by such decision shall have the right to appeal to the County District Court on questions of law and fact.

E. 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.

F. 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 transactions 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 proceeding which shall include the minutes of its meetings, its findings, and the action taken at each matter heard by it, including the final order.

G. The members of the Board shall be paid at rates established by the Town Board and their necessary expenses in attending meetings of the Board and in the conduct of the business of the Board.

8.04 Zoning Amendments

A. An amendment to the text of this Ordinance or to the Zoning Map may be initiated by the Town Board, the Planning Commission, or by the owner of property to which the amendment applies. Parties wishing to initiate an amendment to this Ordinance shall fill out an application furnished by the Township (Appendix A) and submit it to the Town Clerk, together with a filing fee in the amount established by resolution of the Town Board.

B. At least 10 days prior to the hearing, all property owners within one-half mile of the property in question and in the Rural Residential and Commercial Industrial Districts, all property owners within 350 feet of the property in question shall be provided notice of the proposed amendment. Notification shall be by regular first class mail. Failure of any property owner to receive notification shall not invalidate the proceedings. The Town Board or Town Board of any City or Township within 350 feet of the property shall likewise be notified.

C. A public hearing on the amendment application shall be held by the Planning Commission after the completed request for the zoning amendment has been received. Notice of said hearing shall be published in the official newspaper at least ten (10) days prior to the hearing. The Planning Commission shall make its report to the Town Board at the next regular meeting of the Town

Commented [LD36]: Board questioned if MN State Statutes stated anything different regarding Agriculture (asked about $\frac{1}{4}$ mile)

Commented [LD37R36]: I researched and found MN State Statute 394.26 Subd. 2 and found 500 ft for variances, $\frac{1}{4}$ mile for CUPs and IUPs, and $\frac{1}{2}$ mile for all other official controls

Board following the hearing recommending approval, disapproval or modified approval of the proposed amendment.

- D. The Town Board shall attempt to take action on the proposed amendment within sixty (60) days of the receipt of the completed application. If action cannot be taken within sixty days, the Township will notify the applicant in writing of the reason for failing to act within sixty (60) days and the proposed timetable for action. The Town Board must act no later than one hundred twenty (120) days of the receipt of the completed application, unless the time frame is extended by the applicant or the application is withdrawn.
- E. No application for an amendment to the text of this Ordinance, or to 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.
- F. Notice requirements and procedures that are set forth in this Section in excess of those required by state law are directory. Failure to comply with such procedures will not invalidate the proceedings.

8.05 Conditional Use Permits

- A. Criteria for Granting Conditional Use Permits.

In granting a conditional use permit, the Town Board shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use on the health, safety, and general welfare of occupants of surrounding lands, the effect of existing and anticipated traffic conditions, including parking facilities, on adjacent streets and land, the effect on values of property and scenic views in the surrounding area, and the consistency of the proposed use on the Comprehensive Plan. In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission and/or Town Board may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions which they 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.

8. Designating sites for open space.

Any change involving structural alterations, enlargement or intensification of use, or any change to conditions of a permit which are 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 Town Clerk shall maintain a record of all conditional use permits issued including information on the use, location, and conditions imposed by the Town Board, time limits, annual review dates, and such other information as may be appropriate.

B. Procedure.

1. The person applying for a conditional use permit shall fill out and submit to the Planning Commission Secretary or Town Clerk an application together with a fee in the amount established by resolution of the Town Board.
2. The application shall be referred to the Planning Commission for consideration at a public hearing.
3. The applicant or a representative shall appear before the Planning Commission in order to answer questions concerning the proposed conditional use.
4. Any intensification of conditional uses or other changes in conditional uses, including any requests by the permittee for amended conditions, shall require an amendment to the conditional use permit. An amended conditional use permit application shall be administered in a manner similar to that required for a new conditional use permit, with a fee established by resolution of the Town Board.
5. No application for a conditional use permit that has been denied shall be resubmitted for a period of twelve (12) months from the date of said order of denial.
6. If a time limit or periodic review is included as a condition by which a conditional use permit is granted, the conditional use permit may be reviewed at a public hearing at the discretion of the Township with notice of said hearing following the requirements prescribed above.
7. Notice requirements and procedures that are set forth in this Section in excess of those required by state law are directory. Failure to comply with such procedures will not invalidate the proceedings.

8.06 Variances

A. Criteria for Granting Variances.

A variance may be granted from the strict application of the provisions of the Zoning Ordinance when the variance is in harmony with the general purposes and intent of the Zoning Ordinance and the applicant establishes that there are practical difficulties in complying with the strict letter of the regulations of this Zoning Ordinance. "Practical

difficulties," as used in connection with the granting of a variance, means that the applicant proposes to use the property in a reasonable manner not permitted by the zoning provisions of this Zoning Ordinance; the plight of the applicant is due to circumstances unique to the property not created by the applicant; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. A variance will not be granted if it is inconsistent with the comprehensive plan.

The Board may grant approval or approval with conditions, or denial of the variance request. In considering a request for a variance and whether the applicant established that there are practical difficulties in complying with provision(s) of this Zoning Ordinance, the Board shall consider the following criteria set forth in Minn. Stats. § 462.357, subd. 6: factors:

1. Variances shall only be permitted when they are in harmony with the general purposes and intent of this chapter.
2. Variances shall only be permitted when they are consistent with the comprehensive plan.
3. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with this chapter. The term "practical difficulties," as used in connection with the granting of a variance, means that:
 - a. The property owner proposes to use the property in a reasonable manner not permitted by this chapter;
 - b. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
 - c. The variance, if granted, will not alter the essential character of the locality.

Economic considerations alone do not constitute practical difficulties.
4. Circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size, shape, topography, or other circumstances over which the owners of the property have had no control;
2. Literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Ordinance;
3. The applicant proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance;
4. The circumstances affecting the property do not result from the actions of the applicant and is not merely for the convenience of the applicant;
5. Granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to others of other lands, structures, or buildings in the same district; and
6. The variance will not alter the essential character of the locality.

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Findings of the Board of Adjustment and Appeals should include evidence of the practical difficulties affecting the subject property.

B. Procedure.

1. The person applying for a variance shall fill out and submit to the Town Clerk an application provided by the Township (Appendix A) together with a fee established by the Town Board.
2. The application shall be referred to the Planning Commission for consideration at a public hearing. Notice of the hearing shall be published in the official newspaper at least ten (10) days prior to the public hearing.
3. The applicant or a representative shall appear before the Planning Commission in order to answer questions concerning the proposed variance.
4. No application for a variance that has been denied shall be resubmitted for a period of twelve (12) months from the date of said order of denial.

8.07 Building Permits

A. Procedure.

For the purposes of enforcing this Ordinance, a building permit shall be required of all persons intending to construct, alter, enlarge, repair, move, demolish, or change the use of a building or structure.

1. Persons requesting a building permit shall fill out a building permit application form available from the Town Clerk or designee.
2. Completed building permit application and any fee based on Township fee schedule shall be returned to the Town Clerk.
3. If there are no changes to the exterior footprint or height of the structure and the use classification is not changing, the Town Clerk shall forward the application to the Building Official for review with Planning Commission or Board oversight.
4. If there are changes to the building footprint, but the new proposed exterior building walls are more than three times the required setback from property lines and no change to the use classification is proposed, the Town Clerk is authorized to forward the application to the Building Official for review without Planning Commission or Board oversight.
5. If there are changes to the building footprint, and the new proposed exterior building walls are less than three times the setback requirements, the Clerk shall forward the application and plans to the Planning Commission for review and recommendation to the Board of Supervisors for final approval.
6. The Town Board shall consider the Planning Commission's recommendation and take action to approve, modify, or deny the permit application ~~at its~~^{at its} at the next regular meeting, or within any other timeframe prescribed by law, unless the applicant withdraws the application.
7. In the event an existing building is to be moved, or a building is destroyed to allow a replacement, a performance bond in an amount determined by the Town Board shall be required.
8. Once the land use issues in the application have been approved by the Board of Supervisors, the permit request shall be reviewed by the Building Official. The applicant shall be available for consultation with the Building Official to answer questions regarding the permit.
9. The Building Official shall review the permit application within a reasonable period of time and any time limitation prescribed by law. Failure of the applicant to furnish required permit information shall delay the permit review.
- 9.10. All permits and plan reviews shall be subject to reimbursements for city costs, including but limited to enforcement, engineering, consulting and legal fees.

B. Certificate of Occupancy.

A Certificate of Occupancy must be issued by the Township prior to any occupancy of a newly constructed building for which a permit is issued by the Township or upon

a change of occupancy classification.

C. Permit Review Financial Responsibility.

A permittee and/or developer shall be responsible for any expenses related to plan reviews or other tasks, as directed by the Town Board, by Township consultants that may be necessary in order for the Township to make an informed decision under this Ordinance. This includes all permits and plan reviews subject to reimbursements for city costs, including but limited to enforcement, engineering, consulting and legal fees.

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B. Violations

- a. The violation of any provision of this chapter, or the violation of the conditions or provisions of any permit issued pursuant to this chapter, shall be a misdemeanor and, upon conviction thereof, the violator shall be subject to a fine, imprisonment, or both, plus, in either case, the cost of prosecution.
- b. Unless otherwise provided, each act of violation and every day on which such violation occurs or continues, constitutes a separate offense.
- c. Stop Work Order:
 1. Whenever the building official finds any work regulated by this title being performed in a manner either contrary to the provisions of this title or dangerous or unsafe, the building official is authorized to issue a stop work order.
 2. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work will be permitted to resume.
 3. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

8.08 Interim Use Permits

A. Application, Public Hearing, Notice, and Procedure.

The application, public hearing, notice, and procedure requirements for interim use permits shall be the same as those for amendments as provided in Section 8.04 of this Ordinance.

B. Termination.

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

1. The date stated in the permit.
2. A violation of the condition under which the permit was issued.
3. A change in the Township's zoning regulation which renders the use nonconforming.

C. Standards.

1. The interim use must be allowed in the zoning district where the property is located.
2. The interim use must meet or exceed the performance standards set forth in this Ordinance and other applicable Township ordinances.
3. The interim use must comply with the specific standards for the use identified in this Ordinance, and must comply with all conditions of approval which shall be included in an interim use permit agreement.

D. Conditions.

The Township may attach conditions to approval of a permit to mitigate anticipated adverse impacts associated with the use, to ensure compliance with the standards of approval, to protect the value of other property, and to achieve the goals and objectives of the Comprehensive Plan.

E. Reapplication.

No application for an interim use permit that has been denied shall be resubmitted for a period of twelve (12) months from the date of said order of denial.

8.09 **Penalties**

In the event of a violation of this Ordinance, the Town Board ~~or the Planning Commission, in addition to other remedies,~~ may request the Township Attorney to institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations.

Commented [LD39]: Removed Planning Commission

Unless stated otherwise in this Ordinance, any person, firm, or corporation who shall violate any of the provisions hereof, or who shall fail to comply with any of the 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 as provided my Minnesota Statutes. Each day that a violation continues shall constitute a separate offense.

8.10 **Repealer**

The Castle Rock Zoning Ordinance, adopted June 11, 2002, and all amendments thereto, is hereby repealed. Parts of other ordinances in conflict with this Ordinance, to the extent of such conflict and no further, are hereby repealed.

8.11 **Effective Date**

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

8.12 **Summary Ordinance Approval.**

The Town Board hereby determines that the text of the summary marked "Official Summary of Ordinance No. 2013-01", a copy of which is attached hereto, clearly informs the public of the intent and effect of the ordinance. The Town Board further determines that publication of the title and such summary will clearly inform the public of the intent and effect of the ordinance.

8.13 **Fees and Reimbursements.**

The Town Board shall establish and revise from time to time by resolution a schedule of fees and deposits required to be paid with any application to or related action necessary of the Township. In general, applicants shall be required to cover the Township's out of pocket expenses in review and required actions including, but not limited to, legal fees, engineering fees and planning fees.

SECTION IIX: USE OF RIGHT-OF-WAYS BY LOCAL UTILITY PROVIDERS

9.01 Findings , Purpose and Intent.

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

As the road authority for the Township's roads, the Town Board has the authority and responsibility to provide for safe and efficient local roadways and to establish regulations governing the use and maintenance of Town roadways and public right-of-ways. This Ordinance is adopted consistent with that authority as well as the authority provided the Town Board pursuant to 1997 Session Laws, Chapter 123, Minnesota Statutes, sections 237.16, 237.162, 237.403, 237.795, 238.070 and 238.086 (the "Act"), Minnesota Statutes, sections 164.36, 169.832,

169.87, and the other laws governing applicable rights of the Township and users of the right-of-way. This Ordinance shall be interpreted consistent with those statutes as well as with Minnesota Rules, parts 7819.0050 — 7819.9950 where possible. This Ordinance shall not be interpreted to limit the regulatory and police powers of the Township to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

9.02 Election to Manage the Public Right-of-Way

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

9.03 Definitions

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

- A. “Abandoned Facility” means a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.
- B. “Applicant” means any person requesting permission to excavate or obstruct a right-of-way.
- C. “Commission” means the Minnesota Public Utilities Commission.
- D. “Construction Performance Bond” means any of the following forms of security provided at permittee’s option:
 - 1. Individual project bond;
 - 2. Cash deposit;
 - 3. Letter of Credit, in a form acceptable to the Township;
 - 4. Self-insurance, in a form acceptable to the Township; or
 - 5. A blanket bond for projects within the Township, or other form of construction bond, for a time specified and in a form acceptable to the Township.
- E. “Degradation” means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.
- F. “Degradation Cost” subject to Minnesota Rules, part 7819.1100 means the cost to achieve a level of restoration, as determined by the Township at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules, parts 7819.9900 to 7819.9950.
- G. “Degradation Fee” means the estimated fee established at the time of permitting by the Township to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the
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degradation cost.

- H. "Delay Penalty" is the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.
- I. "Emergency" means a condition that (1) poses a danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.
- J. "Equipment" means any tangible asset used to install, repair, or maintain facilities in any right-of-way.
- K. "Excavate" means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.
- L. "Excavation permit" means the permit which, pursuant to this Ordinance, must be obtained before a person may excavate in a right-of-way. An excavation permit allows the holder to excavate that part of the right-of-way described in such permit.
- M. "Excavation permit fee" means money paid to the Township by an applicant to cover the costs as provided in this Ordinance.
- N. "Facility" or "Facilities" means any tangible asset in the right-of-way required to provide utility service.
- O. "Local Representative" means a local person or persons, or designee of such person or persons, authorized by an applicant to accept service and to make decisions for that registrant regarding all matters within the scope of this Ordinance.
- P. "Management Costs" means the actual costs the Township incurs in managing its right-of-ways, including such costs, if incurred, as those associated with: registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, Chapter 123; Minnesota Statutes, sections 237.162 or 237.163; or any ordinance enacted under those sections, or the Township fees and costs related to appeals taken as provided in this Ordinance.
- Q. "Obstruct" means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.
- R. "Obstruction Permit" means the permit which, pursuant to this Ordinance, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein.
- U. "Obstruction Permit Fee" means money paid to the Township by a permittee to cover the costs as provided in this Ordinance.
- V. "Patch" or "Patching" means a method of pavement replacement or roadway

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

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

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

Y. "Permittee" means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the Township under this Ordinance.

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

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

BB. "Restoration Cost" means the amount of money paid to the Township by a permittee to achieve the level of restoration according to plates 1 to 13 of Minnesota Public Utilities Commission rules.

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

DD. "Right-of-Way Permit" means either the excavation permit or the obstruction permit, or both, depending on the context, required by this Ordinance.

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

FF. "Service" or "Utility Service" includes (1) those services provided by a public utility as defined in Minnesota Statutes, section 216B.02, subdivisions 4 and 6;

GG. services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications systems as defined in Minnesota Statutes, Chapter 238; (4) services provided by a cooperative electric association organized under Minnesota Statutes, Chapter 308A; and (5) water, and sewer, including service laterals, steam, cooling or heating services.

HH. "Service Lateral" means an underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.

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

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

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

LL. “Town Board” means the Board of Supervisors of Castle Rock Township, Dakota County, Minnesota.

MM. “Township” means Castle Rock Township, Dakota County, Minnesota.

NN. “Township Representative” means a Township supervisor or other person designated by the Town Board to conduct inspections or to otherwise oversee work done within right-of-ways, whether such work is done by permit or otherwise.

9.04 Permit Required

A. Permit Required. Except as otherwise provided in this Ordinance, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the Township to do so.

(1) Excavation Permit. An excavation permit is required to excavate within a right-of-way related to the installation, repair, replacement, or removal of facilities.

(2) Obstruction Permit. An obstruction permit is required to obstruct a right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

(3) Combination Permit. If a proposed utility project involves both the excavation and obstruction of a right-of-way, a person may apply for a combination excavation/obstruction permit.

B. Exclusions. A permit is not required for the following activities. These exclusions do not relieve the person from fully complying with all applicable provisions of this Code:

1. The Township, its agents, and contractors performing work for the Township shall not be required to obtain permits from the Township to excavate or obstruct a right-of-way. Contractors performing work for the Township shall be required to erect and maintain such signs and other traffic control devices as are necessary to warn of the work and to protect public safety.

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sodding otherwise allowed in the right-of-way area adjacent to the public streets, or for vegetative seeding or sodding in right-of-way areas where a public easement exists for underground purposes.

3. No permit is required of persons who install mailboxes in the right-of-way in accordance with requirements of the U.S. Postal Service.
4. No right-of-way permit is required of persons who temporarily place residential household refuse containers in the right-of-way for the collection of solid waste or recyclables.

C. Permit Extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless: (i) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit; and (ii) a new permit or permit extension is granted.

D. Delay Penalty. In accordance with Minnesota Rule, part 7819.1000, subpart 3, the Township may establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration.

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

9.05 Permit Applications

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

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

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9.06 Issuance of Permit; Conditions

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

9.07 Permit Fees

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

9.08 Right-of-Way Patching and Restoration.

- C.** Timing. The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited due to unseasonal or other weather conditions which reasonably prohibit the work.
- B. Patch and Restoration. Permittee shall patch its own work. The Township may choose either to have the permittee restore the right-of-way or to restore the right- of-way itself.**
 - (1)** *Township Restoration.* If the Township restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the roadway settles due to permittee's improper backfilling, the permittee shall pay to the Township, within thirty (30) days of billing, all costs associated with correcting the defective work.

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- (2) *Permittee Restoration.* If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minnesota Rule, part 7819.3000.
- (3) *Degradation Fee in Lieu of Restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

C. Standards. The permittee shall perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the Township and shall comply with Minnesota Rule, part 7819.1100.

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

E. Failure to Restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the Township, or fails to satisfactorily and timely complete all restoration required by the Township, the Township at its option may do such work. In that event, the permittee shall pay to the Township, within thirty (30) days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the Township may immediately exercise its rights under the construction performance bond.

9.09 Supplementary Applications.

A. Limitation on Area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area: (i) make application for a permit extension and pay any additional fees required thereby; and (ii) be granted a new permit or permit extension.

B. Limitation on Dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

9.10 Other Obligations.

A. Compliance With Other Laws. Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the Township or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minnesota Statutes, sections 216D.01-.09 (Gopher One Call Excavation Notice System) and Minnesota Rules, Chapter 7560. A permittee shall perform all work in conformance with all applicable

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codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

- B. Prohibited Work. Except in an emergency, and with the approval of the Township, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.
- C. Interference with Right-of-Way . A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with Township parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.
- D. Trenchless Excavation. As a condition of all applicable permits, permittees employing trenchless excavation methods including, but not limited to, horizontal directional drilling, shall follow all requirements set forth in Minnesota Statutes, Chapter 2l6D, Minnesota Rules, Chapter 7560, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the Township.

9.11 Denial of Permit.

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

9.12 Installation Requirements.

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules, parts 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent with the Minnesota Statutes, sections 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minnesota Rules, Chapter 7560 and this Ordinance.

9.13 Inspection.

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

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C. Authority of Township Representative (Town Board Supervisor and/or Appropriate Township Road Authority).

1. At the time of inspection, the township representative (Town Board Supervisor and/or the appropriate Township Road Authority) may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public. The order to stop work shall be in writing and issued to the owner of the property involved, to the owner's agent, or to the person doing the work. A person who continues work after having been served with a stop work order, except for work that the person is directed to perform to remove a violation or unsafe condition, is subject to penalties as prescribed by law. The stop work order shall state the reason for the order and the conditions under which the cited work will be permitted to resume.

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2. The township representative may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the township representative that the violation has been corrected. If such proof has not been presented within the required time, the township representative may revoke the permit as provided herein.

9.14 Work Done Without a Permit.

A. Emergency Situations. Each right-of-way user shall immediately notify the township representative of any event regarding its facilities that it considers to be an emergency. The right-of-way user may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two business days after the occurrence of the emergency, the right-of-way user shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this Ordinance for the actions it took in response to the emergency.

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B. Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by the Township, deposit with the Township the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this Ordinance. The order to stop work shall be in writing and issued to the owner of the property involved, to the owner's agent, or to the person doing the work. A person who continues work after having been served with a stop

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work order, except for work that the person is directed to perform to remove a violation or unsafe condition, is subject to penalties as prescribed by law. The stop work order shall state the reason for the order and the conditions under which the cited work will be permitted to resume.

9.15 Supplementary Notification.

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

9.16 Revocation of Permits.

A. Substantial Breach. The Township reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

- (1) The violation of any material provision of the right-of-way permit;
- (2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the Township or its citizens;
- (3) Any material misrepresentation of fact in the application for a right-of-way permit;
- (4) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or
- (5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued by a township representative.

B. Written Notice of Breach. If the Township determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the Township shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the Township, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

C. Response to Notice of Breach. Within 24 hours of receiving notification of the breach, permittee shall provide the Township with a plan, acceptable to the Township, that will cure the breach. Permittee's failure to so contact the Township, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause

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for immediate revocation of the permit.

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

9.17 Location and Relocation of Facilities.

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

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9.18 Mailbox Damage Reimbursement

If a mailbox is directly struck by a Township snowplow, the property owner shall be reimbursed in accordance with the Township fee schedule. However, the Township is not responsible for damage to mailboxes within the public right-of-way and is not responsible for mailboxes damaged or knocked over by the weight of the snow discharged from snowplowing operations.

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9.19 Right-of-Way Vacation.

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

9.20 Indemnification and Liability.

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

9.21 Abandoned and Unusable Facilities.

A. Discontinued Operations. A right-of-way user who has determined to discontinue all or a portion of its operations in the Township must provide information satisfactory to the Township that the right-of-way user's obligations for its facilities in the right-of-way under this Ordinance have been lawfully assumed by another person.

B. Removal. Any right-of-way user who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the Township.

9.22 Appeal.

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

SECTION IX PERMIT REQUIREMENTS FOR LARGE UTILITY PROJECTS

10.01 Findings, Purpose, and Intent.

The Town Board has experience with large utility projects and the impacts they can have on the Township, its residents, and the Township's infrastructure. Large

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utility projects include those issued a permit by the Minnesota Public Utilities Commission for the siting or routing of

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

10.02. Definitions.

The following definitions shall apply to this Article in addition to those contained in Section 10.03 of this Ordinance to the extent they are not inconsistent with the following:

- A. “Haul Road” means all public right-of-ways located within the Township proposed to be used, or which are actually used, for the hauling of materials or equipment related to a large utility project, including construction access routes. Haul road shall also include any public right-of-ways used as a detour for public travel to avoid right-of- ways temporarily closed or obstructed for a large utility project.
- B. “Large Utility Project” means the installation, extension, or expansion of a large energy facility as defined in Minnesota Statutes, section 216B.2421, subdivision 2 conducted pursuant to a routing or siting permit issued by the Minnesota Public Utilities Commission.
- C. “Permittee” means any person to whom a project permit has been granted by the Township under this Ordinance.
- D. “Project Permit” means a permit issued by the Town Board for a large utility project and which must be obtained before any such project may occur within the Township.

10.03 Permit Required

No person may undertake a large utility project in the Township without first having

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obtained a project permit from the Township. A project permit is limited to large utility projects, is intended to be inclusive in that it shall contain all the permissions and agreements required from the Township, it shall set out or reference all conditions and requirements imposed by the

Township for the particular project, and shall be the only permit an applicant is required to obtain from the Township for the project. A project permit shall include any right-of-way obstruction or excavation permit that would otherwise be required by this Ordinance and shall also address all hauling, construction traffic, overweight vehicles, and other potential impacts the project may have on the Township.

10.04 Application Process.

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

A. Pre-Application Meeting and Road Inspection. A proposed applicant shall meet with the Township at least once prior to submitting an application to discuss the project, proposed route of the utility line, proposed location of related facilities, proposed haul roads, proposed construction accesses, review the requirements of this Ordinance, and to discuss such other matters as may be relevant to the project and its impact on the Township. The Township and the proposed applicant shall conduct an inspection of any Township roads identified as potential haul roads. The purpose of the inspection is to assess the current condition of the roads, bridges, and related facilities and to determine whether they are sufficient, or can reasonably be made sufficient, to handle the anticipated truck traffic. The Township may, at the applicant's sole expense, have the proposed haul roads inspected by an engineer to assist in determining the adequacy of the roads and bridges to serve as haul roads, to assess and document the present conditions of the proposed haul roads, and to determine whether any pre-project improvements are required in order to make one or more roads or bridges sufficient to serve as haul roads. The Township may recommend to the proposed applicant alternative haul roads that the Township determines will be better able to accommodate the anticipated truck traffic and minimize safety and maintenance concerns. If the Township determines a right-of-way or bridge cannot safely accommodate the anticipated truck traffic to serve as a haul road, and determines it cannot be reasonably improved to safely accommodate such traffic, the proposed applicant shall not designate or use the right-of-way as a haul road.

B. Application. An applicant shall apply for a project permit from the Township on an application form approved by the Town Board. The application shall be submitted to the Town Clerk together with the application fee and a construction performance bond in an amount the Township determines is sufficient to cover all costs associated with any pre-construction improvements of haul roads, additional maintenance during the project, and restoring the haul roads to at least the same condition they were in prior to the project. The applicant shall also provide the Township a cash escrow in an amount determined by the Town Board to defray its out-of-pocket and professional costs associated with processing and administering compliance with the project permit including, but not limited to,

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engineering, legal, and administrative costs.

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

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

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

- (1) Pre-Project Road Improvements. The Township shall determine, in its reasonable discretion, if any pre-project improvements are required on any of the right-of-ways proposed to serve as haul roads for the project. Pre-project improvements may include, but are not limited to, sub-grade correction, base repair, re-surfacing, culvert replacement, and bridge stabilization or replacement. Any such improvements shall be performed in accordance with the standards, specifications and requirements identified by the Township. The Township shall specifically identify in the project permit the pre-project improvements required to be completed before the right-of-ways may be used as haul roads. The Township will perform the pre-project improvements at the applicant's expense unless the Town Board and the applicant agree the applicant shall perform the improvements; and
- (2) Additional Maintenance Needs. The Township shall determine if any additional maintenance work is required on the haul roads during the project to accommodate the additional traffic and the resulting impacts on the public such as grading, re-graveling, dust control, and ditch repair. The required additional maintenance work shall be described within the project permit.

10.05. Escrow.

At the time of application, the applicant shall be required to place cash in escrow with
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the Township. The Town Board shall determine the required amount of escrow after the pre- application meeting, which shall be an amount sufficient to guarantee all engineering, planning, and legal expenses related to the project incurred by the Township before and after the application for the review and issuance of the project permit, monitoring of the permit conditions, inspections of all right-of-way improvements, and enforcement of the permit. The Township shall withdraw funds from the escrow as needed to reimburse itself for the costs it incurs. If at anytime the Town Board determines the amount of the escrow will not be sufficient to fully reimburse the Township's costs, the permittee shall escrow such additional amounts with the Township as determined by the Town Board within 15 days of the Township providing written notice of the need for additional escrow. Costs incurred for improving, maintaining and restoring right-of-ways Shall be billed as provided in Section 10.08 of this Ordinance.

10.06. Construction Performance Bond.

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

10.07. Issuance of Project Permit; Conditions.

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

- A. Escrow. The permittee shall fully reimburse the Township for all reasonable out-of-pocket costs and fees it incurs related to the project including, but not limited to, costs incurred to improve, maintain, and repair haul roads and right-of-ways crossed by the applicant's facilities. The Township shall deduct its expenses from the escrow provided and replenished as required by Section 110.5 of this Ordinance;
- B. Indemnification. By accepting a project permit under this Ordinance, permittee agrees to defend indemnify, and hold the Township, its officers, employees and agents harmless, including attorneys fees and defense costs, from all losses, liability or claims for bodily injury or death, property damage, or otherwise arising from or related to the project. The permittee is not required to indemnify the Township for losses or liability arising directly from the Township's own negligence or wrongful acts or omissions;
- C. Compliance with Other Laws. The permittee is responsible for obtaining all such other permits or permissions related to the project as may be required by law.

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except that no other permits shall be required form the Township once it issues a project permit, provided the project does not change in any material way with respect to its impacts on the Township after the project permit is issued. If such a material change does occur, the permittee shall immediately apply for an amended project permit. Without limiting the foregoing, the addition or alteration of a haul road not designated in the project permit shall constitute a material change in the project requiring an amended project permit; and

D. Improvement, Maintenance, and Restoration. The permittee shall be responsible for the costs for pre-project improvements, additional maintenance, and restoration of the right-of-ways as provided in Section 110.8 and elsewhere in this Ordinance.

10.08. Improvement, Maintenance and Restoration of haul Roads.

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

10.09. Performance Standards and Requirements.

Permittees shall comply with the following standards, requirements, and limitations.

A. Road Crossings. Any underground utilities crossing a right-of-way shall be constructed without open cuts in the roadway when practicable. The permittee shall furnish detailed construction plans for all utility crossings within the right-of-way. The Township Engineer shall recommend to the Town Board whether the crossing(s) can be completed without disturbing the existing roadway. In the event an open road cut crossing is necessary, the permittee shall provide detailed cross sections of the existing Township road at the point of the crossing and detailed restoration plans. The Township Engineer shall recommend to the Town Board what detailed road cut restoration plans will be required as a condition of the road crossing.

B. Construction Access Route Signage. The permittee shall be required to post signs for all construction access, according to Township specifications, that clearly identify authorized construction access routes for materials delivery, equipment delivery, and construction employees. The permittee shall inform and instruct all contractors and sub-contractors, including equipment and material suppliers, of the restrictions for construction access and identify all authorized haul roads.

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C. Heavy Construction Equipment Usage on Township Roads. The operation of heavy construction equipment on Township roads, including but not limited to backhoes, cranes, and bulldozers, shall be prohibited, except as specifically authorized in the project permit.

D. Construction Inspection, Damage and Repair. The Township shall monitor and inspect all Township roads used by the permittee, including the permittee's use of any unauthorized access routes, during the approved utility construction and shall identify any damages. In the event any Township road is damaged by the permittee's construction activity, the permittee shall be liable for the cost of repair and restoration of the road, including but not limited to sub-grade correction, base repair, re-surfacing, culvert replacement, bridge repair and ditch restoration.

1. Financial Surety. The Township shall require a financial surety in a form acceptable to the Township to guarantee performance of the right-of-way improvement, maintenance and restoration requirements. The surety shall also be sufficient to guarantee all engineering, planning, and legal expenses to be incurred by the Township for the review and issuance of the right-of-way permit, monitoring of the permit conditions, inspections of all right-of-way improvements, and enforcement of the permit. The amount and form of the financial surety shall be determined by the Town Board. Upon completion of the required improvements and a recommendation of the Township Engineer to accept the improvements, the financial surety shall be released by the Town Board.
2. Obstructions Prohibited. No equipment, materials, vehicles, or facilities related to the project shall be placed, parked, or otherwise located within a right-of-way in a way that obstruct the maintenance or safe pedestrian or vehicular usage of the right-of-ways.
3. Parking and Loading. Vehicle parking and loading and unloading of vehicles related to the project is prohibited within the right-of-ways in areas unless expressly allowed in the project permit.

10.10 Revocation of Permit.

The Township may revoke a project permit following the procedures set out in Section 10.16 of this Ordinance.

10.11. Application of Articles.

The provisions of Article One of this Ordinance generally apply to large utility projects except to the extent they contradict an express provision of Article Two. Right-of-way users are not required to comply with the requirements of Article Two except to the extent they engage in a large utility project.

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Adopted by the Board of Supervisors this 8th day of January, 2013.

Town Board Chair

ATTEST:

Town Clerk

Date of Public Hearing: December 18, 2012

Date Ordinance Published in Legal Newspaper: January 31, 2013

AMENDMENTS INCORPORATED INTO ORDINANCE NO. 2013-01

~~Ordinance No. 2013-A, adopted November 12, 2013, published December 20, 2013~~

~~Ordinance No. 2013-B, adopted December 10, 2013, published December 20, 2013~~

~~Ordinance No. 2015-A, adopted January 12, 2015~~

~~Ordinance No. 2015-B, adopted November 9, 2015, published November 19, 2015~~

~~Ordinance No. 2016-A, adopted May 9, 2016~~

~~Ordinance No. 2016-C, adopted December 12, 2016, published December 22, 2016~~

~~Ordinance No. 2017-A, adopted April 10, 2017~~

~~Ordinance No. 2018-A, adopted November 12, 2018, published November 29, 2018~~

~~Ordinance No. 20-01, adopted July 14, 2020, published July 23, 2020~~

~~Ordinance No. 2020-02, adopted November 10, 2020, published on December 2, 2020.~~