

**LE SAUK TOWNSHIP
STEARNS COUNTY, MINNESOTA**

LE SAUK TOWNSHIP CODE

Adopted

**Adopted August 8, 2017
(By Ordinance No. 17-02)**

**Original Effective Date
August 2017**

Amended

October 24, 2020
(Ordinance No. 20-04)
February 28, 2023
(Ordinance No. 23-01)
September 26, 2023
(Ordinance No. 23-04)
December 10, 2024
(Ordinance Nos. 24-01; 24-02; 24-03)

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CHAPTER I GENERAL PROVISIONS

100.01. **Title.** This codification of the ordinances of the Town of Le Sauk (“Town”) may be referred to and cited as the “Le Sauk Township Code.” It may be referred to in this codification as “the Code”, “this Code”, or “this Code of Ordinances”.

100.02. **Purpose.** The Town of Le Sauk has, from time to time, passed various ordinances which established various regulations, restrictions, and requirements, and imposed penalties for the violation of such ordinances. The Town desires to enact this Code in order to have the provisions of all such ordinances, which exist as of this date, or are hereinafter adopted, brought together into a single codified set of ordinances to ease reference, avoid duplicate provisions, and enhance access to these regulations by the public. The Town is authorized by Minnesota Statutes, section 415.021 to adopt this Code of Ordinances.

100.03. **Rules of Interpretation.** The following rules shall apply to the interpretation and application of this Code:

Subdivision 1. **Adoption by Reference.** Statutes, administrative rules, or regulations of the state of Minnesota and codes and ordinances adopted by reference in this Code are adopted pursuant to authority granted by Minnesota Statutes, section 471.62. Such references are the most current versions of those documents and shall automatically include any amendments made thereto and any successor provisions without further action by the Town Board, unless expressly provided otherwise in this Code. Furthermore, such references shall serve to incorporate those statutes, rules, or regulations into this Code by reference, including such other provisions that are necessary to give effect to the provisions expressly adopted by reference, to the extent necessary to achieve the intent and purposes of this Code. However, such incorporations are intended only to give effect to this Code and are not intended to make the Town responsible for the administration or enforcement of the referenced statutes, rules, or regulations beyond any enforcement action that may be initiated under this Code.

Subd. 2. **Relation to State Law.** It is the intent of the Town Board that the provisions of this Code are the fullest exercise of the regulatory and other powers granted to it by state law. Where this Code imposes more stringent regulations or standards of conduct than contained in similar provisions of state law, rule or regulation, it is the intent of the Town Board that the provisions of this Code prevail over that state law, rule, or regulation to the extent permitted by law.

Subd. 3. **Headnotes, etc.** Chapter, section, subsection, and subdivision headnotes, titles and cross references are not substantive parts of this Code, but are instead merely intended to expedite and simplify its use.

Subd. 4. **Minimum Requirements and Strictness.** In their interpretation and application, the provisions of this Code shall be held to be the minimum requirements for the promotion of the public health, safety and welfare. Where the standards, regulations or requirements imposed by any provision of this Code are either more or less restrictive than comparable standards, regulations or requirements imposed by any other applicable ordinance, rule, statute, law, or

regulation of the Town or of any other governmental entity, the ordinance, rule, statute, law or regulation which imposes the more restrictive condition, standard, regulation, or requirement shall apply in addition to the provision of this Code. In the event of any conflict between this Code with any private restrictions, protections or covenants, the provisions of this Code shall be met. In their interpretation and application, the provisions of this Code shall be held to be minimum requirements, shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other powers granted by state statute.

Subd. 5. Severability. If any section, clause, provision or portion of this Code is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Code shall not be affected thereby. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Code to a particular person, property, building or structure, such judgment shall not affect the application of said provisions to any other person, property, building or structure not specifically included in said judgment.

Subd. 6. Examples Listed. The listing of examples to further explain a term, concept, requirement or process is not intended to be, and shall not be interpreted as, an exclusive listing. Unless the context clearly indicates otherwise, such listings are intended to be explanative without being exclusive or limited.

Subd. 7. Specific words.

- (a) The singular includes the plural, and the plural 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; and
- (d) General words are construed to be restricted in their meaning by preceding particular words.

Section 105 - Miscellaneous Provisions

105.01. **Effect on Past Ordinances.** All ordinances previously adopted by the Town Board related to one or more matters specifically addressed in this Code are hereby repealed. This Code does not contain, and does not repeal, ordinances of a temporary nature or that do not have ongoing effect.

105.02. **Citation; Reference; Numbering System.** For the purposes of structuring this Code, the internal references made in it, and citation to it by its users, the following numbering system is used:

Chapter	Roman numerals (e.g. Chapter I)
Section	Arabic numerals (e.g. Section 100)
Subsection	Arabic numerals for section and subsection separated by decimal (e.g., Subsection 100.01)
Subdivision	Arabic numeral for subdivision separated from the subsection by comma (e.g. Subdivision 1 or Subd. 1)
Clause	English letters, lower case, in parentheses (e.g., (a)) (Example: Chapter I, Section 100.01, Subd. 1(a))

Reference or citations made in a form other than the foregoing will not defeat the intent of the Town Board in enacting an ordinance or the intent of a user in citing the Code when such intent is otherwise clear. This Code is to be construed liberally to carry out its intent and purposes.

105.03. **Service Charges.** Any charge or fee imposed by or related to this Code, as well as any costs incurred by the Town in the administration and enforcement of this Code, shall constitute a service charge collectable by the Town, in addition to any other legal authority available to the Town, pursuant to Minnesota Statutes, section 366.012 by certifying the amount to the auditor of any county in which the person owing the amount owns property for collection together with the taxes imposed on the property.

105.04. **Application Forms.** All applications required by this Code must be on forms approved by the Town Board. Any requests not submitted on an approved Town form shall not be considered an application for the purposes of this Code, or Minnesota Statutes, section 15.99 to the extent applicable, and shall be rejected. An application shall be immediately rejected if it is not accompanied by the required application fee and escrow (if required).

Section 110 – Definition of Terms; Interpretation; Conflicts

110.01. Definitions; Common Terms.

Subdivision 1. For purposes of this Code, the following terms shall have the meaning given them in this Section. The definitions contained in this Section are in addition to any other definitions contained within this Code. To the extent a term is not defined in this Code, it shall have the meaning given it in the most applicable Minnesota Statute or Rule and, if not defined therein, it shall have the meaning usually attributed to the term in the context in which it is used in this Code.

Subd. 2. “Board” or “Town Board” means the Town Board of Supervisors of Le Sauk Township, Stearns County, Minnesota.

Subd. 3. “Code,” “this Code” or “Code of Ordinances” means the Le Sauk Township Code adopted by ordinance, as organized, compiled, and codified herein.

Subd. 4. “Clerk” means the Le Sauk Township Clerk.

Subd. 5. “Owner” means, in the case of personal property, a person, other than a lien holder, having the property in or title to personal property. In the case of real property, the term means the fee owner of land, or the beneficial owner of land whose interest is primarily one of possession and enjoyment in contemplation of ultimate ownership. The term includes, but is not limited to, vendees under a contract for deed and mortgagors.

Subd. 6. “Person” means an individual, firm, partnership, association or corporation. The term may also be extended to and apply to bodies corporate and politic, to partnerships, and other unincorporated associations.

Subd. 7. A reference to an elected or appointed Town officer includes the duly authorized representative of that officer.

Subd. 8. “Resident” means a person who resides in the Town.

Subd. 9. “Town” means Le Sauk Township, Stearns County, Minnesota, and all the territory lying within the Town’s boundaries.

110.02. **Definitions; Statutory.** For purposes of this Code, the terms defined in Minnesota Statutes, sections 645.44 and 645.45 have the meanings given them by those sections. Terms defined by statutes, rules or regulations, and ordinances adopted by reference have the meanings given them therein.

110.03. **Definitions; Internal.** Terms defined in other sections of this Code have the meanings given them by those sections.

110.04. **Interpretation; Conflicts.**

Subdivision 1. Common Usage. Words and phrases used in this Code are to be interpreted and understood in accordance with common and accepted usage, but any technical words or phrases or such others as have acquired a specific or peculiar meaning are to be interpreted and understood in accordance with such meaning.

Subd. 2. Statutory Rules. It is the intent of the Town Board that the rules and canons of construction, presumptions, and miscellaneous provisions relating to statutory construction contained in Minnesota Statutes, chapter 645, apply to this Code and govern its interpretation. Questions of meaning, construction, and interpretation of this Code shall be resolved by application of the rules of interpretation contained in this Code and those established in Minnesota Statutes, chapter 645. The provisions of Minnesota Statutes, chapter 645 are adopted by reference and are to be reconciled and applied together with the rules of interpretation contained herein to the greatest extent possible.

Section 115 – Legislative Procedure

115.01. **Ordinances; Enactment.** Ordinances are enacted in accordance with the procedures set forth in law. Ordinances are to be integrated into this Code in accordance with this Section.

115.02. **Form of Amendments and New Ordinances.** An ordinance amending this Code must specify the subsection, subdivision, and clause to be amended. Language to be added must be underlined and language to be repealed must be stricken. An ordinance repealing an entire chapter, section, subsection, subdivision or clause need refer only to that chapter, section, subsection, subdivision or clause, and the text need not be reproduced. The text of an ordinance adding only new provisions to the Code need not be underlined.

115.03. **Integration of Ordinances into the Code.**

Subdivision 1. **Duties.** The Town Clerk and the Town Attorney are authorized and directed to incorporate any ordinances subsequently adopted by the Town Board into this Code, provided such ordinances are not of a temporary or transient nature such that their incorporation would not be appropriate.

Subd. 2. **Matters Omitted.** When an ordinance is integrated into this Code, the following matters may be omitted:

- (a) Title;
- (b) Enacting clause;
- (c) Section numbers;
- (d) Definition of terms identical to those contained in this Code;
- (e) Validation and repealing clauses;
- (f) Validating signatures and dates;
- (g) Punctuation and other matters not an integral part of the text of the ordinance; and
- (h) Penalty provisions.

Subd. 3. **Errors.** When integrating ordinances into the Code, the Town Clerk and the Town Attorney may correct manifest grammatical, punctuation, and spelling errors; correct cross references and references to statutes and rules; change reference numbers to conform with sections, subsections, chapters, and ordinances; substitute figures for written words and vice versa; substitute dates for the words “the effective date of this ordinance;” and perform like actions to insure a uniform Code of Ordinances without, however, altering the meaning of the ordinances enacted.

115.04. **Ordinance Records; Special Ordinances.** The Town Clerk is responsible for the safe and orderly keeping of ordinances in a manner directed by the Town Board. An ordinance not included in this Code by Town Board direction is a special ordinance. The Town Clerk must place special ordinances in the Town’s ordinance book together with all other ordinances adopted by the Town Board. The Town Board may direct that special ordinances and other matters be included in appendices to this Code.

115.05. **Effective Date.** Ordinances adopted by the Town Board shall go into effect on the first day of publication after adoption unless a different effective date is provided by law or specified in the ordinance.

Section 120 - Penalties and Enforcement

120.01. **Penalties.** Except as to violations which have been designated as gross misdemeanors or as petty misdemeanors by the State of Minnesota, or by any ordinance hereinafter adopted, any person who violates any ordinance of the Town of Le Sauk, or any provision thereof, shall be guilty of a misdemeanor. Punishment for the violation of all ordinances of the Town of Le Sauk shall be that designated in Section 609.02 as follows:

- (a) For a misdemeanor offense, the punishment shall be pursuant to Minnesota Statutes, section 609.02, subdivision 3;
- (b) For a gross misdemeanor offense, the punishment shall be pursuant to Minnesota Statutes, section 609.02, subdivision 4; and
- (c) For a petty misdemeanor offense, the punishment shall be pursuant to Minnesota Statutes, section 609.02, subdivision 4a.

120.02. **Administration and Enforcement.** The Town Board shall be responsible for administering and enforcing this Code, but it may delegate responsibility to administer and enforce portions of the Code to others. The Town Board, and those delegated authority to enforce portions of this Code, may issue cease and desist orders, citations, stop work orders, or such other directives or orders as they may determine are appropriate to stop or prevent the violation of this Code. This Code may be enforced by initiating such criminal proceedings or civil proceedings as the Town Board, or the delegated person, determines are appropriate and the initiation of a particular enforcement action or proceeding does not preclude or limit the Town's ability to initiate any other type of enforcement action or proceeding. The Town may take any reasonable action necessary to restrain a violation of this Code including, but not limited to, initiating such legal actions and seeking such orders from the court as it deems appropriate. The Town Attorney is authorized and delegated such powers as is necessary to issue such orders and directives, and to take all such other actions as may be needed to enforce or restrain a violation of this Code.

120.03. **Failure of Officers to Perform Duties.** The penalty imposed by this Section does not apply to the failure of an officer or employee of the Town to perform a duty imposed by this Code unless a penalty is specifically provided for such failure.

CHAPTER II ADMINISTRATION OF TOWN GOVERNMENT

Section 200- Form of Government

200.01. **Regular Town.** Le Sauk Township is a duly organized town of the State of Minnesota and is, therefore, classified by Minnesota Statutes, section 365.02 as a public corporation. The Town Board has not adopted, and does not exercise, powers under Minnesota Statutes, section 368.01. The electors of the Town have not voted to adopt any of the optional plans provided in Minnesota Statutes, section 367.30 for the Town.

Section 205 – Town Elections

205.01. **Regular Elections.** The Town holds its regular election on the second Tuesday of November of even numbered years.

205.02. **Special Elections.** Special elections may be called, and shall be conducted, as provided in law.

205.03. **Board of Canvass.** The Town Board shall serve as the canvassing board for Town elections. The Town Board must meet to canvass the returns and declare the results between the third and tenth days after the election.

Section 210 – Public Offices

210.01. **Town Supervisors.** The Town has three supervisors elected on the second Tuesday in November of even numbered years. Each supervisor serves a six-year term of office. The supervisors, as a Town Board, shall have charge of all Town affairs not committed to other officers by law. The Town Board may designate certain duties to individual supervisors and delegate to those supervisors the authority to carry out those duties on behalf of the Town. The authority to carry out the assigned duties is implied in the Town Board's delegation of the duties, except that the authority to contract or to otherwise bind the Town to any third parties is limited to the authority expressly provided by the Town Board.

210.02. **Town Clerk.** The Town Clerk is an appointed position with a one-year term. The Town Clerk has the authority and duties set out in Minnesota Statutes, section 367.11 and such other law as may apply. The Town Board may delegate to the Town Clerk certain other authority and duties as may be needed to provide for the efficient operation of the Town. The Town Clerk may be removed from office at the Town Board's discretion.

210.03. **Town Treasurer.** The Town Treasurer is an appointed position with a one-year term. The Town Treasurer has the authority and duties set out in Minnesota Statutes, section 367.16 and such other law as may apply. The Town Board may delegate to the Town Treasurer certain other authority and duties as may be needed to provide for the efficient operation of the Town. The Town Treasurer may be removed from office at the Town Board's discretion.

210.04. **Deputies.** The Town Clerk and Town Treasurer are authorized by law to each appoint one deputy. A duly appointed deputy is authorized to carry out the duties of the appointing officer in his or her absence or disability.

210.05. **Town Board Chairperson.** The Town Board shall appoint one of its members to serve as its Chairperson. The Chairperson shall be responsible for conducting and administering the Town Board meetings. The Chairperson shall also sign Town documents and checks on behalf of the Town. The Chairperson has no other additional powers or duties than any other Town Board member. The Chairperson has the full authority of a supervisor to make and second motions and to vote on all matters coming before the Town Board.

210.06. **Town Board Vice-Chairperson.** The Town Board shall appoint one of its members to serve as its Vice-Chairperson. The Town Board Vice-Chairperson shall serve as the Chairperson in the absence or disability of the Chairperson.

210.07. **Workers' Compensation.** The Town Board of Supervisors, Town Clerk, and Town Treasurer are considered to be Town employees for the purposes of the Town's workers' compensation insurance policy while acting within the scope of their official duties for the Town.

Section 215- Town Meetings and Procedures

215.01. **Regular Town Board meetings.** The regular meetings of the Town Board are held on the second and fourth Tuesdays of each month at 7:00 p.m., unless otherwise specified by Town Board. Meetings may be adjourned from time to time to a specified date or subject to the call of the Chairperson. Meetings of the Town Board must be open to the public in accordance with the Minnesota Open Meeting Law, unless the meeting is closed as provided by law. A scheduled meeting falling on a legal holiday is held on the next following business day unless a different meeting date is established by the Town Board.

215.02. **Special Town Board Meetings.** The Chairperson is authorized to call a special Town Board meeting to conduct any item of Town business. Any other supervisor may request a special Town Board meeting by forwarding such request to the Town Clerk, who shall then forward it to the other supervisors. The requested special Town Board meeting will be called if so ordered by the Chairperson or upon consent by at least one other supervisor to call the meeting.

215.03. **Quorum.** A majority of Town Board supervisors constitutes a quorum, but a smaller number may adjourn from time to time. A supervisor must be present at a meeting in order to be counted toward a quorum and to vote, unless the person is attending by interactive television as provided by the Minnesota Open Meeting Law.

215.04. **Presiding Officer.** The Chairperson presides at meetings of the Town Board. If the Chairperson is not present at a meeting, the Vice-Chairperson shall serve as the presiding officer in the Chairperson's absence. The presiding officer must preserve order and decorum, decide questions of order, and conduct meetings in an orderly fashion and in accordance with any rules of procedures adopted by the Town Board. The presiding officer may speak on any question being considered, and has the rights, privileges, and duties of any other member of the Town Board.

215.05. **Agenda.** The Town Clerk shall prepare and distribute to the supervisors the agenda of regular Town Board meetings. The Town Board may, by motion at a meeting, amend the agenda. The Town may place routine and non-controversial matters of business on a consent agenda that is adopted in a single motion. Any item on the consent agenda may be removed at the request of any supervisor and placed on the regular agenda. The Town Board may adopt the remainder of the consent agenda items in a single motion.

215.06. **Decorum.** A person making personal, impertinent, or slanderous remarks, or who becomes boisterous while addressing the Town Board may be ordered by the presiding officer to leave the meeting unless permission to continue is granted by a majority vote of the Town Board. Meetings must be conducted in an orderly manner and proper decorum must be maintained by the presiding officer throughout the meetings.

215.07. **Town Board Policies.** The Town Board may adopt policies related to Town business by resolution and it may amend or repeal such policies by subsequent resolutions.

215.08. **Motions Reduced to Writing.** A motion must be reduced to writing at the request of any supervisor present. Ordinances and resolutions must be presented in writing. The roll call vote of each supervisor shall be taken when required by law and may otherwise be requested by a supervisor. Any vote taken where a supervisor does not vote against the motion or expressly abstains, the supervisor will be deemed to have voted affirmatively on the matter. Passage of an ordinance must be recorded in the minutes.

215.09. **Signing and Publishing Ordinances.** Ordinances must be signed by the Chairperson, attested by the Town Clerk, published after their passage by the Town Board, and placed in the Town ordinance book kept for that purpose. Ordinances may be published in summary form as authorized by law. A copy of the resolution approving summary language for publication shall be placed in the Town's ordinance book together with proof of publication.

215.10. **Annual Town Meetings.** The annual Town meeting is a meeting of the Town electors held on the second Tuesday in March each year. The electors are authorized at the annual Town meeting to set the Town's levy and to act on such other items of Town business as authorized in Minnesota Statutes, section 365.10 or other applicable law. Except to the extent Minnesota law expressly empowers the electors to make a final decision on a matter, actions taken at an annual Town meeting have the effect of providing the Town Board authority to act or recommending the Town Board act in a certain way regarding a matter. Such authorizations or recommendations do not compel the Town Board to take action or to act as recommended.

215.11. **Special Town Meetings.** Special Town meetings are meetings of the electors called to address one or more specific items of Town business on which the electors are authorized by law to act. Special town meetings may only be called in accordance with Minnesota Statutes, section 365.52. The business discussed at a special Town meeting is limited to the specific purpose or purposes for which the meeting was called.

215.12. **Moderator.** Annual and special Town meetings are conducted by a moderator selected for the meeting by the electors present at the meeting. The Town Clerk shall call the meeting to order and the first item of business shall be the selection of a moderator. The selected moderator must then state the order of business for the meeting. The moderator shall serve as the presiding officer for the purposes of the meeting.

Section 220 – Boards and Commissions

220.01. **Joint Planning Board.** The Town and the City of Sartell have entered into a joint powers agreement that establishes the City of Sartell-Le Sauk Township Joint Planning Board (“Joint Planning Board”). The Joint Planning Board is comprised of members appointed by the Town Board and members appointed by the City Council. The Joint Planning Board directly participates in the adoption and administration of land use regulations within the Town.

220.02. **Board of Appeals and Adjustments.** The Town Board shall serve as the Board of Adjustments for the Town for purposes of considering and acting finally on variance applications.

220.03. **Board of Audit.** As provided in Minnesota Statutes, section 366.20, the Town Board serves as the Board of Audit for the Town. The Board of Audit shall review, audit, and settle all charges against the Town. The Town Board shall perform its auditing function during each regular Town Board meeting when the Town Board reviews the claims to be paid. The Town Board also sits as the Board of Audit at least annually to formally audit the claims for the year.

220.04. **Board of Appeal and Equalization.** As provided in Minnesota Statutes, section 274.01, the Town Board serves as the Board of Appeal and Equalization for the Town. The Board of Appeal and Equalization shall review the assessment and classification of property by the county assessor and determine whether the taxable property in the Town has been properly placed on the list and properly valued as provided by law.

Section 225 – Financial Matters

225.01. **Depository**. The Town Board shall designate the bank that shall serve as the depository of Town funds. The Town Board may change the designated bank as it determines is appropriate.

225.02. **Funds**. The Town Board may establish and name funds as it determines is appropriate. The Town shall, at a minimum, have a road and bridge fund and a general fund. As provided in Minnesota Statutes, section 366.04, the Town Board may, by unanimous vote of the supervisors present at the meeting, transfer a surplus beyond the needs of the current year in a fund to any other fund to supply a deficiency.

225.03. **Investments**. The Town Board may invest funds it holds that are not presently needed for other purposes or not restricted for other purposes. All such investments shall be made in accordance with Minnesota Statutes, section 118A.04 and other applicable law.

CHAPTER III PUBLIC RIGHT-OF-WAYS AND UTILITIES

Section 300 – Use of the Right-of-Way

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

300.02. **Authority.** As a road authority, the Town Board has broad authority to regulate what occurs within the Town's road rights-of-way. This authority is found in Minnesota Statutes, section 365.10, subdivision 17, a variety of sections in Minnesota Statutes, chapters 160, 164, 165, 222, 237 and other chapters, as well as the rules associated with those chapters.

300.03. **Definitions.** The following terms shall have the meaning given them in this Section.

Subdivision 1. "Approach" means the area of the right-of-way between the traveled surface of the road and the adjacent property that is intended to provide access for vehicles or equipment from the surface of the road to the adjacent property.

Subd. 2. "Headwall" means rock, concrete, masonry, metal, timber or other similar materials placed on the sides of an approach as support, to prevent erosion, or for decorative purposes.

Subd. 3. "Junk" means old or scrap hazard signs, copper, brass, rope, rags, batteries, paper, trash, garbage, waste materials, rubbish, rubber debris, appliances, waste or junked, dismantled or wrecked automobiles or farm or construction machinery or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

Subd. 4. "Person" means an individual, corporation, business trust, partnership or association or any other legal entity.

Subd. 5. "Right-of-Way" means the entire area on, below or above the public roadway, bicycle lane, public sidewalk, shoulders, ditches, and all adjacent areas in which the Town has an interest, including for travel, utility, or drainage purposes.

300.04. **Cultivation and Landscaping.**

Subdivision 1. **Cultivation.** No person may cultivate, plant, harvest or maintain agricultural crops, trees, bushes or shrubs within a right-of-way.

Subd. 2. **Landscaping.** No person may cultivate, plant or maintain grasses, flowers, vegetables or other vegetation in any manner that obstructs visibility of a road or otherwise

interferes with, obstructs, or renders dangerous for passage a right-of-way. No person may place watering systems or sprinkler heads within a right-of-way.

300.05. Obstructions and Junk.

Subdivision 1. Obstructions. No person may place, maintain or allow any obstruction in a right-of-way other than those specifically permitted by this Section, by state law or rule, or by written approval of the Town Board. Items prohibited by this Section include, but are not limited to, fences, posts, structures, piled materials, hay bales, vehicles, trailers, campers, equipment or any other items that interfere with the safe use or the maintenance of the right-of-way. No person shall park a functioning vehicle in a right-of-way in such a way as to unreasonably interfere with the safe use of a road or the maintenance of the right-of-way.

Subd. 2. Junk. No person shall place or maintain junk in a right-of-way.

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

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

300.08. Damage to Right-of-Way. No person shall cause damage to a right-of-way without the written approval of the Town Board. Any person doing damage within a right-of-way with approval of the Town Board shall return the right-of-way to at least the same condition it was in prior to the damage or be charged the Town's costs to repair the damage.

300.09. Mailboxes, Signs and Newspaper Boxes.

Subdivision 1. Mailboxes and Newspaper Boxes. Mailboxes and newspaper boxes are permitted within a right-of-way if they do not interfere with, obstruct, or render dangerous for passage a road. Mailboxes placed within a right-of-way must comply with all of the standards in Minnesota Rules, chapter 8818 regardless of the applicable speed limit. The Town Board may, at the owner's expense, remove and replace mailboxes that do not comply with the standards as provided in Minnesota Statutes, section 169.072.

Subd. 2. Signs. No sign of any nature may be placed or allowed to remain in any right-of-way except an official traffic sign placed by a governmental authority or other signage expressly permitted by state law, or by permission of the Town.

300.10. Snow Plow Limit Markers. For the purpose of roadway demarcation, plastic or fiberglass snow plow limit markers are permitted within a right-of-way but shall only be placed 15-18 inches from the roadway surface. No person may place or affix snow plow limit markers that are constructed of wood or metal within any right-of-way.

300.11. Approaches and Headwalls.

Subdivision 1. Approaches. No person may construct or reconstruct any approach to a road without first obtaining approval by the Town Board. A person shall be required to submit a map or drawing of the existing or proposed approach when seeking approval.

Subd. 2. Culverts. A person constructing or reconstructing an approach shall be required to install a culvert meeting the specifications set out by the Town Board if the Town Board determines a culvert is necessary for suitable approach to the road and to promote adequate drainage of the right-of-way.

Subd. 3. Costs. A person constructing or reconstructing an approach to an existing road shall be responsible for paying all of the costs related thereto, including the cost of seeking all necessary approvals and the cost of a culvert if one is required. Property owners are responsible for maintaining all approaches and associated culverts on their property at their own cost.

Subd. 4. Headwalls. No person may construct or reconstruct any headwall in a way that interferes the safe use or maintenance of a right-of-way.

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

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

300.14. Enforcement and Penalty.

Subdivision 1. Correction Order. Upon discovery of a violation of this Section, the Town Board may issue a correction order to the violator or owner ordering the person to correct the violation by a certain time. If the person fails to comply with the correction order by the time indicated in the order, the Town Board may provide for the correction of the violation at the owner's expense. Issuance of a correction order does not preclude imposition of any other penalty set forth in this Section.

Subd. 2. Immediate Correction. If the Town Board determines that the violation creates an immediate threat to public safety, the Town Board will make a good faith effort to notify the violator to immediately correct the situation. If the Town Board is not able to promptly reach the

violator, or if the violator fails to immediately correct the situation upon notification, the Town Board will provide for the correction of the violation.

Subd. 3. Cost of Correction. The cost of correcting a violation shall be the responsibility of the owner. If the Town Board provides for the correction of the violation, all expenses incurred, including reasonable attorneys' fees, shall be billed to the owner and constitute a service charge. If the bill is not paid by the due date, the Town Board may exercise any lawful options available to it to collect the amount due including, but not limited to, certification to the county auditor for collection together with the property taxes on the owner's property as provided in Minnesota Statutes, section 366.012.

Subd. 4. Penalty. Any person who violates this Section shall be guilty of a misdemeanor and subject to the penalties for such as provided in State law. Each day of existence of such violation shall constitute a separate offense. If convicted, the person may be assessed costs of prosecution as allowed by Minnesota Statutes, section 366.01, subdivision 10.

Section 305 – Utilities in the Right-of-Way

305.01. **Purpose.** It is the purpose of this Section to establish reasonable regulations, requirements and restrictions regarding the use of Town right-of-ways in order to protect the health, safety and welfare of Town residents, those traveling on Town roads and the general public. It is also the purpose of this Section to protect the cumulative investment the public has made to construct, maintain and improve the Town's roads by requiring those undertaking utility projects in and near the Town's right-of-ways to obtain a permit from the Town 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 Section provides for the recovery by the Town of its actual expenses incurred related to such projects.

305.02. **Authority.** As the road authority for the Town'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 Section is adopted consistent with that authority, as well as the authority provided the Town Board pursuant to Minnesota Statutes, sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086, Minnesota Statutes, sections 164.36 and 169.87, and the other laws governing applicable rights of the Town and users of the right-of-way. This Section shall be interpreted consistent with those statutes as well as with Minnesota Rules, Parts 7819.0050 – 7819.9950 to the extent applicable. This Section shall not be interpreted to limit the regulatory and police powers of the Town to adopt and enforce general ordinances and policies necessary to protect the health, safety, and welfare of the public.

305.03. **Elect to Manage.** The Town Board hereby elects, pursuant to Minnesota Statutes, section 237.163, subdivision 2, to manage the Town's right-of-ways under its jurisdiction under Minnesota Statutes, sections 237.162 and 237.163, and all other applicable laws, for the purposes of Minnesota Rules, chapter 7819.

305.04. **Definitions.** The following terms shall have the meaning given them in this Section.

Subdivision 1. "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.

Subd. 2. "Applicant" means a person who submits a permit request for an excavation permit or an obstruction permit in accordance with this Section.

Subd. 3. "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.

Subd. 4. "Degradation Cost" subject to Minnesota Rules, Part 7819.1100, means the cost to achieve a level of restoration, as determined by the Town 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.

Subd. 5. “Degradation Fee” means the estimated fee established at the time of permitting by the Town to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

Subd. 6. “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.

Subd. 7. “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.

Subd. 8. “Excavate” means to dig into, trench or in any way remove, physically disturb or penetrate a part of the right-of-way.

Subd. 9. “Excavation permit” means the permit which, pursuant to this Section, 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.

Subd. 10. “Facility” or “facilities” mean any tangible asset in the right-of-way required to provide utility service.

Subd. 11. “Obstruct” means to hinder the free and open passage of any portion of a right-of-way for more than two hours or on more than one lane of traffic.

Subd. 12. “Obstruction permit” means the permit which, pursuant to this Section, 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.

Subd. 13. “Permit request” means a request to obtain an excavation permit or obstruction permit made on the Town Board’s approved application form or, if none, in a writing containing all of the information required by this Section.

Subd. 14. “Permittee” means a person to whom the Town Board has issued an excavation permit or obstruction permit under this Section.

Subd. 15. “Professional fees” means all actual costs, fees, and expenses the Town incurs related to a particular permit request, permit or permittee in the administration or enforcement of this Section. Such fees include, but are limited to, engineering fees, attorneys’ fees and any inspection costs.

Subd. 16. “Restore” or “Restoration” means the process by which an excavated right-of-way and surrounding area, including the travelled surface, shoulders, foundation, ditches and other drainage structures and approaches is returned to the same condition and life expectancy that existed before excavation.

Subd. 17. “Right-of-Way” means the area on, below, or above a public road, highway, street, cartway, bicycle lane or public sidewalk in which the Town has an interest, including other publicly dedicated right-of-ways for travel purposes and utility easements of the Town. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

Subd. 18. “Right-of-way user” means: (1) a telecommunications right-of-way user as defined by Minnesota Statutes, section 237.162, subdivision 4, as may be amended; 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.

Subd. 19. “Small wireless facility” has the meaning given it in Minnesota Statutes, section 237.162, subdivision 11.

Subd. 20. “Wireless support structure” has the meaning given it in Minnesota Statutes, section 237.162, subdivision 16.

305.05. **Permit Required.**

Subdivision 1. Except in emergencies, no person may excavate, obstruct, or place a new wireless support structure in a right-of-way without first obtaining a permit from the Town Board. An excavation permit is required to excavate any portion of a right-of-way for the purpose of placing, repairing, relocating or removing facilities. An obstruction permit is required to obstruct a right-of-way in any way related to the placement, repair, relocation or removal of facilities. To obtain a permit, a person must provide the Town Clerk with a written permit request for the proposed excavation or obstruction. If a proposed excavation project includes an obstruction at the same site, an applicant need not submit a separate permit request for an obstruction permit if the request for the excavation permit includes a description of the proposed obstruction. In such cases, the Town Board may issue a combination excavation/obstruction permit.

Subd. 2. Exclusions. The Town, its agents and contractors performing work for the Town shall not be required to obtain permits from the Town to excavate or obstruct a right-of-way. Contractors performing work for the Town 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.

305.06. **Permit Requests.**

Subdivision 1. Form. Requests for an obstruction or excavation permit must be made on the application form adopted by the Town Board.

Subd. 2. Information Required. Permit requests must be in writing and contain at least the following information:

- (a) Name, address, phone number and fax number of the applicant;
- (b) Name, address, phone number and e-mail address of a local representative that will serve as the designated contact person on behalf of the applicant;
- (c) Name, address, phone number and fax number of any subcontractors that will be performing any part of the excavation or obstruction;
- (d) A written description of the work to be performed in the right-of-way at each location including whether the work will involve excavation or the obstruction of a right-of-way;
- (e) A scaled drawing showing the specific location of the work to be performed and the location and approximate depth of any facilities installed within a right-of-way;
- (f) Whether the applicant intends to restore the right-of-way or elect to pay a degradation fee in lieu of restoration;
- (g) The start and completion dates for the work at each location; and
- (h) Certificate of insurance showing, at a minimum, the amount of general liability coverage carried by the applicant and any contractors or subcontractors that will be performing any work within a right-of-way.

Subd. 3. Incomplete Requests. If a permit request received by the Town Board is incomplete, the Town Board will notify the applicant within 15 days of the information that is needed in order to complete the request. Incomplete permit requests are invalid and shall be deemed rejected unless all the required information is submitted to the Town Board within 30 days of the date the Town Board notified the applicant its permit request was incomplete.

Subd. 4. Permit Request Fee. All permit requests must be accompanied by a permit request fee as established by the Town Board, which shall include any outstanding amounts related to any prior obstructions or excavations by the applicant in the Town. The purpose of this fee is to compensate the Town Board for all costs associated with reviewing and considering the permit request. A permit request is not complete and shall not be considered by the Town unless it is accompanied by the required fee.

305.07. Indemnification. By making a permit request, the applicant agrees to, and all excavation and obstruction permits are issued on the condition that the permit holder defend and indemnify the Town in accordance with the provisions of Minnesota Rules, Part 7819.1250.

305.08. Automatic Permit. A permit request shall be deemed approved, and the requested permit automatically issued, if the Town Board does not notify the applicant that the application is incomplete or that the proposed excavation or obstruction requires the issuance of a written permit. The scope of such a permit shall be limited to the specific work, location, and period of

time described in the permit request. Notice of the need to obtain a written permit shall be provided within the following number of days from the date the Town Board received the applicant's completed permit request:

- (a) 15 days if the applicant intends to fully restore the right-of-way; or
- (b) 30 days if the applicant indicates an intent to pay a degradation fee in lieu of restoring the right-of-way.

305.09. **Written Permit.**

Subdivision 1. Conditions. If the Town Board notifies an applicant of the need to obtain a written permit, the applicant shall not undertake the proposed excavation or obstruction until the Town Board issues a written permit to the applicant. The Town Board will require a written permit if, in its sole discretion, it determines the potential impact on the public or right-of-way requires additional review or safeguards. When considering permit requests requiring a written permit, the Town Board may condition the issuance of a written permit on the applicant:

- (a) Providing the Town Board with additional information;
- (b) Providing a completion certificate as authorized in Minnesota Rules, Part 7819.1300;
- (c) Providing the Town with a construction performance bond with a term of at least 24 months as authorized by Minnesota Rules, Part 7819.3000 before the excavation occurs;
- (d) Require the restoration of the right-of-way be performed in accordance with Town Board established specifications and drawings; and
- (e) Complying with such other reasonable requirements as the Town Board may determine are necessary to protect the public health, safety, and welfare or the right-of-way and its current uses.

Subd. 2. Written Permit. When a written permit is required, the applicant is required, in addition to paying the permit request fee, to reimburse the Town Board for the actual costs it incurs related to issuing the permit including, but not limited to, costs of reviewing the request, conducting inspections, professional fees and any other costs actually incurred that directly relate to the applicant's request. The Town Board shall provide the applicant a written statement of costs incurred. Payment in full of the written permit fee is due upon receipt of the statement and must be received by the Town Board no later than 20 days from issuance of the statement. In the alternative, the Town Board and the applicant may agree to an advanced payment of the written permit fee. Failure to pay the written permit fee within the required period shall result in the immediate suspension of the permit and may result in the revocation of the permit as provided herein.

Subd. 3. **Limitations.** Permitted excavations or obstructions, whether issued automatically or by written permit, are limited to the area and time periods described in the permit request or written permit. A permit holder must seek a new permit if it wishes to excavate or obstruct outside of the originally permitted work area or timeframe.

305.10. **Delay Penalty.** A permit holder that does not complete its obstruction, excavation, or restoration of the right-of-way at a particular location within 10 days of the completion date shall pay the Town a delay penalty for each day of delay. If a permit holder is able to establish to the Town Board that one or more days of the delay was caused by circumstances beyond its control, such as bad weather or other circumstances constituting *force majeure*, the delay penalty shall not apply to those days of the delay.

305.11. **Telecommunication Facilities.** Telecommunication facilities to be installed in a right-of-way shall be installed according to the requirements set out in Minnesota Rules, Part 7819.5000 in addition to all other applicable federal, state and local requirements.

305.12. **Small Wireless Facilities.** Small wireless facilities may be placed on wireless support structures within a right-of-way with the issuance of a written permit from the Town and is subject to the requirements and limitations of Minnesota Statutes, sections 237.162 and 237.163, and all other applicable federal, state and local requirements. No small wireless facility may be placed on a wireless support structure owned by the Town except in accordance with a collocation agreement entered into with the Town.

305.13. **Gas and Electric Facilities.** Gas and electric facilities to be installed in a right-of-way shall be installed according to the requirements set out in Minnesota Rules, Part 7819.5100 in addition to all other applicable federal, state and local requirements.

305.14. **Restoration Required.** A permit holder must restore the right-of-way to at least the same condition that existed before the excavation, including the restoration of vegetative cover as needed and the full repair and restoration of any drainage structures. If there is a dispute as to the level of restoration required, the permit holder shall restore the right-of-way according to the applicable standards established in plates 1 to 13 set out in Minnesota Rules, Parts 7819.9900 to 7819.9950. If a permit holder elects in its permit request to pay a degradation fee in lieu of restoring the right-of-way, the fee will be in an amount the Town Board determines necessary for the Town to have the right-of-way restored according to the applicable standards established in plates 1 to 13. A permit holder electing to pay a degradation fee remains responsible for replacing and compacting the subgrade and aggregate base material in the excavation.

305.15. **Correct Defects and Restoration.**

Subdivision 1. **Notice to Correct.** Upon notice by the Town Board, a permit holder shall correct any defects in the work it performs to restore a right-of-way. The work to correct the defects shall be completed within seven days of the notice. If the permit holder is not able to complete the corrective work within seven days because of circumstances beyond its control, it shall complete the work as soon as is reasonably possible, which in no case shall exceed 14 days.

Subd. 2. Failure to Restore or Correct Defects. If a permit holder fails to restore the right-of-way within five calendar days after the completion of an excavation, or fails to correct defects as provided herein, the Town Board has the option of restoring the right-of-way or correcting the defects according to the standards established in plates 1 to 13 set out in Minnesota Rules, Parts 7819.9900 to 7819.9950. The Town shall provide a statement of its actual costs for restoring, or correcting defects, to the right-of-way to the permit holder. Payment in full of the statement is due upon receipt and must be received by the Town Board no later than 20 days from the date of the statement. If the permit holder fails to pay the billed amount, the Town may exercise its rights under the construction performance bond or pursue such other options as are available to it under law to recover its costs.

305.16. **Additional Limitations.** A permit holder shall comply with all of the following:

- (a) Compliance with Other Laws. Obtaining a right-of-way permit does not relieve a permit holder of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the Town or other applicable rule, law or regulation. A permit holder 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 permit holder shall perform all work in conformance with all applicable 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 Town, 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 permit holder shall not so obstruct a right-of-way that it interferes with the natural free and clear passage of water through the ditches or other drainage structures. 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 state and Town parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit, and without interfering with the safe use of the right-of-way by the public.
- (d) Trenchless Excavation. As a condition of all applicable permits, permit holders employing trenchless excavation methods including, but not limited to, horizontal directional drilling, shall follow all requirements set forth in Minnesota Statutes, chapter 216D and Minnesota Rules, chapter 7560; and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the Town.

305.17. **Permit Denial.** The Town Board may deny a permit request if the applicant has failed to pay any fees, penalties or other amounts due as the result of previous excavations or obstructions unless the failure to pay is based on a good faith dispute over the amount owed. If

the amount owed the Town is in dispute, an applicant can become eligible to submit an additional permit request by placing the full amount the Town claims is still owed in escrow until the dispute is resolved. The Town Board may also deny a permit request for failure to meet the requirements of this Section, or if it determines the denial is necessary to protect the public health, safety and welfare.

305.18. **Warning Signs.** A permit holder shall supply, place and maintain warning signs as needed to warn the public of its excavation or obstruction. A permit holder shall comply with the standards established by the Minnesota Department of Transportation in determining the need for signage, the type of signs and their location.

305.19. **Notice of Completion.** A permit holder shall notify the Town when the work conducted pursuant to any permit issued hereunder is complete.

305.20. **Site Inspection.** A permit holder shall make its worksite available at all reasonable times to Town representatives to conduct inspections of the site during the work and at its completion.

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

305.22. **Permit Revocation.** The Town Board may issue an order revoking a permit if a permit holder fails to comply with a noncompliance notice or if it determines the permit holder is conducting the work in such a way as to pose an unreasonable risk to the public. An order revoking a permit must state the specific items of noncompliance and is effective four days from the date of issuance if the permit holder does not come into full compliance and otherwise corrects the items stated in revocation order. If the Town Board revokes a permit, it shall provide for the restoration of the right-of-way and the permit holder shall pay all costs the Town incurs associated with the restoration to the standards established in plates 1 to 13 set out in Minnesota Rules, Parts 7819.9900 to 7819.9950. If a permit is revoked, the permit holder shall also reimburse the Town for the Town's reasonable costs, including restoration costs, the costs of collection, and professional fees incurred in connection with such revocation.

305.23. **Emergencies.** An excavation or obstruction permit is not required in order for a person to respond to emergencies related to their facilities. However, within two business days after the occurrence of the emergency, the person shall apply for the necessary permits, pay the fees associated with those permits, and comply with the requirements to obtain those permits and of this Section.

305.24. **Work Done Without a Permit.** 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 Town, deposit with the Town the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this Section.

305.25. **Relocation of Facilities.** A person is required, at his or her own expense, to promptly and permanently remove and relocate his or her facilities in the right-of-way when it is necessary to prevent interference in connection with: the Town's present or future use of the right-of-way for a public project; the public health, safety and welfare; or the safety and convenience of travel over the right-of-way. A person shall also pay for the relocation of his or her facilities upon the vacation of the right-of-way as provided for in Minnesota Rules, Part 7819.3200, subpart 2.

305.26. **Right-of-Way Vacation.** If the Town Board vacates all or a portion of a right-of-way containing facilities and the vacation does not require the relocation of those facilities, the Town Board shall, except when it would not be in the public interest, reserve to and for itself and all those having facilities in the vacated right-of-way, the right to install, maintain and operate facilities in the vacated right-of-way and to enter upon the right-of-way at any time to reconstruct, inspect, maintain, or repair the facilities.

305.27. **Abandoned Facilities.** A person is required to remove any of his or her abandoned facilities in conjunction with other right-of-way repair, excavation or construction unless expressly waived in writing by the Town Board in a specific situation upon the request of the person.

305.28. **Fees and Penalties.** All fees and penalties provided for in this Section shall be established from time to time by Town Board resolution in compliance with Minnesota Rules, Part 7819.1000 and made available to the public upon request. Unless indicated otherwise in a franchise, the fees and penalties provided for herein are in addition to any franchise fees a permit holder may be required to pay. All fees, penalties and other charges imposed under this Section are non-refundable.

305.29. **Notices.** For the purposes of the Town Board providing notice under this Section, the Town Board shall be deemed to have satisfied its notice obligation if it provides the required period of notice by mail, fax or e-mail to the applicant's designated local representative.

305.30. **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, section 237.163, subdivision 6; or (4) disputes a determination of the Town regarding compliance with this Section or of permit conditions, may have the denial, revocation, fee imposition or decision reviewed by the Town Board upon a written notice of appeal detailing the reasons for the appeal and the relief being sought submitted within 14 days of the decision or action being appealed. The Town Board shall act on a timely written appeal 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. The Town Board's decision will be issued in

writing and supported by written findings establishing the reasonableness of the decision. Such decision shall constitute a final decision of the Town regarding the matter being appealed.

305.31. **Delegation.** The Town Board may delegate authority to administer and enforce all or any aspect of this Section to one or more supervisors, employees, contractors or agents as it deems appropriate.

305.32. **Severability.** Nothing in this Section precludes the Town from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

Section 310 – Illicit Discharges and Connections

310.01. **Purpose and Intent.** The purpose of this Section is to provide for the health, safety, and general welfare of the citizens of the Township through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This Section establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (“MS4”) in order to comply with requirements of the National Pollutant Discharge Elimination System (“NPDES”) permit process. The objectives of this Section are:

- (a) To regulate the contribution of pollutants to the municipal separate storm sewer system by stormwater discharges by any user;
- (b) To prohibit illicit connections and discharges to the municipal separate storm sewer system; and
- (c) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this Section.

310.02. **Definitions.** For the purposes of this Section, the following terms shall have the meaning given them in this Subsection.

Subd. 1. “Best management practices” or “BMPs” means schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Subd. 2. “Clean water act” means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) and any subsequent amendments thereto.

Subd. 3. “Construction activity” means activities subject to NPDES Construction Permits. Currently these activities include construction projects resulting in land disturbance of 1 acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

Subd. 4. “Hazardous materials” mean any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Subd. 5. “Illegal discharge” means any direct or indirect non-stormwater discharge to the storm drain system, except as expressly exempted in this Section.

Subd. 6. “Illicit connection” means any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the Township or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the Township.

Subd. 7. “Industrial activity” means any activity subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

Subd. 8. “National pollutant discharge elimination system stormwater discharge permit” means a permit issued by the Environmental Protection Agency (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Subd. 9. “Non-stormwater discharge” means any discharge to the storm drain system that is not composed entirely of stormwater.

Subd. 10. “Person” means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Subd. 11. “Pollutant” means anything which causes or contributes to pollution. Pollutants may include, but are not limited to, the following: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Subd. 12. “Premises” means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Subd. 13. “Storm drainage system” means any publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, Township roads, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Subd. 14. “Stormwater” means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Subd. 15. “Stormwater pollution prevention plan” means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, or receiving waters to the maximum extent practicable.

Subd. 16. “Township” means Le Sauk Township and, for the purposes of administering and enforcing this Section, these entities or persons designated by the Town Board to assist in the administrative or enforcement of this Section.

Subd. 17. “Wastewater” means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

310.03. **Applicability.** This Section shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Township.

310.04. **Administration.** The Township shall administer, implement, and enforce the provisions of this Section. Any powers granted or duties imposed upon the Township may be delegated by the Township Board to persons or entities acting in the beneficial interest of or in the employ of the Township.

310.05. **Minimum Standards.** The standards set forth herein and promulgated pursuant to this Section are minimum standards. As such, this Section does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

310.06. **Illegal Discharges.**

Subdivision 1. **Prohibited.** No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

Subd. 2. **Exceptions.** The following discharges are exempted from the prohibition.

- (a) Water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), firefighting activities, and any other water source not containing pollutants.

- (b) Discharges specified in writing by the Township as being necessary to protect public health and safety.
- (c) Dye testing is an allowable discharge, but requires a verbal notification to the Township prior to the time of the test.
- (d) Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

310.07. **Illicit Connections Prohibited.** The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this Section if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

310.08. **Suspension or Termination of Access.**

Subdivision 1. **Emergency Suspension.** The Township may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Township may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

Subd. 2. **Suspension Upon Notice.** Any person discharging to the MS4 in violation of this Section may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Township will notify a violator of the proposed termination of its MS4 access. The violator may petition the Township for a reconsideration and hearing.

Subd. 3. **Reconnection Prohibited.** A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Township.

310.09. **Industrial or Construction Activity Discharges.** Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Township prior to the allowing of discharges to the MS4.

310.10. **Monitoring of Discharges.**

Subdivision 1. Applicability. This Subsection applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

Subd. 2. Access to Facilities.

- (a) The Township shall be permitted to enter and inspect facilities subject to regulation under this Section as often and at such reasonable times as may be necessary to determine compliance with this Section. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Township.
- (b) Facility operators shall allow the Township ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
- (c) The Township shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Township to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (d) The Township has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Township and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (f) Unreasonable delays in allowing the Township access to a permitted facility is a violation of a stormwater discharge permit and of this Section. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the Township reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Section.
- (g) If the Township has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Section, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Section or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the

Township may seek issuance of a search warrant from any court of competent jurisdiction.

310.11. **Best Management Practices.** The Township will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan ("SWPP") as necessary for compliance with requirements of the NPDES permit.

310.12. **Watercourse Protection.** Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

310.13. **Chloride Reduction.** All commercial, institutional, and non-NPDES permitted industrial facilities which store salt on-site must implement the following best management practices:

- (a) Designated salt storage areas must be covered or indoors;
- (b) Designated salt storage areas must be located on an impervious surface; and
- (c) Implementation of practices to reduce exposure when transferring material in designated salt storage areas (e.g., sweeping, diversions, and/or containment).

310.14. **Notification of Spills.** Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Township in person or by phone or facsimile no later than the next business day.

Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Township within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

310.15. **Enforcement.**

Subdivision 1. **Notice of Violation.** Whenever the Township finds that a person has violated a prohibition or failed to meet a requirement of this Section, the Township may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (e) Payment of a fine to cover administrative and remediation costs;
- (f) The implementation of source control or treatment BMPs and
- (g) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the Township or a contractor and the expense thereof shall be charged to the violator.

Subd. 2. **Appeal of Notice of Violation.** Any person receiving a notice of violation may appeal the determination of the Township. The notice of appeal must be received within 30 days from the date of the notice of violation. Hearing on the appeal before the Town Board shall take place at its next regular meeting following receipt of the notice of appeal and providing at least 10 days notice to appellant. The decision of the Town Board shall be final.

Subd. 3. **Enforcement After Appeal.** If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within 10 days of the decision of the Town Board upholding the decision of the Township, then representatives of the Township 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 Township or designated contractor to enter upon the premises for the purposes set forth above.

Subd. 4. Cost of Abatement. Within 10 days after abatement of the violation, the owner of the property will be notified in writing of the cost of abatement, including administrative costs. If the amount due is not paid within 30 days, the charges may be collected on the taxes of the property as a service charge under Minnesota Statutes, section 366.012, as a special charge that is specially assessed under Minnesota Statutes, section 429.101, or pursuant to any other authority available to the Township under law. The property owner may appeal the amount of abatement costs charged by the Township by submitting a written appeal to the Township within 20 days of the date of the written notification of the charges. If a timely appeal is received, the Township will schedule and provide at least 10 days notice of a hearing before the Town Board to hear and act on the appeal. The decision of the Town Board on the appeal constitutes a final decision on the matter.

Subd. 5. Injunctive Relief. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Section. If a person has violated or continues to violate the provisions of this Section, the Township may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Subd. 6. Enforcement Alternatives. In lieu of enforcement proceedings, penalties, and remedies authorized by this Section, the Township may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

Subd. 7. Violations Deemed a Public 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.

Subd. 8. Criminal Prosecution. Any person that has violated or continues to violate this Section is subject to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty as provided by law. The Township may recover all attorney's fees court costs and other expenses associated with enforcement of this Section, including sampling and monitoring expenses.

Subd. 9. Remedies Not Exclusive. The remedies listed in this Section. are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Township to seek cumulative remedies.

Section 312 – Stormwater

312.01. General Provisions.

Subdivision 1. Authority. This Section is adopted pursuant to the Township's zoning authority under Minnesota Statutes, chapter 462 and such other authority as may apply.

Subd. 2. Application. In the event of any conflict between provisions of this Section or other regulations adopted by the Township, the State of Minnesota, or Federal authorities, watershed district or watershed management organization, the more restrictive standard shall prevail.

Subd. 3. Purpose. The purpose of this Section is established to promote, preserve and enhance natural resources and human health and safety within the Township by protecting them from the adverse impacts of uncontrolled stormwater runoff during and after construction projects.

Subd. 4. Scope. This Section sets requirements for stormwater conveyance systems and management practices within the Township. This Section also regulates land disturbing or development activities that would have a negative and potentially irreversible impact on water quality.

Subd. 5. Applicability. The requirements of this Section apply to all construction activity as defined in this Section.

312.02. **Definitions.** For the purposes of this Section, the following terms shall have the meaning given them in this Subsection.

Subdivision 1. "Active karst" means a terrain having distinctive landforms and hydrology created primarily from the dissolution of soluble rocks within 50 feet of the land surface.

Subd. 2. "Best management practices" or "BMPs" means the most effective and practicable means of erosion prevention and sediment control, and water quality management practices that are the most effective and practicable means of to control, prevent, and minimize degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, pollution prevention through good housekeeping, and other management practices published by state or designated area-wide planning agencies.

Subd. 3. "Common plan of development or sale" means one proposed plan for a contiguous area where multiple separate and distinct land-disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.

Subd. 4. “Construction activity” means activities including clearing, grading, and excavating, that result in land disturbance of equal to or greater than one acre, including the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre. This includes a disturbance to the land that results in a change in the topography, existing soil cover, both vegetative and nonvegetative, or the existing soil topography that may result in accelerated stormwater runoff that may lead to soil erosion and movement of sediment. Construction activity does not include a disturbance to the land of less than five acres for the purpose of routine maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Routine maintenance does not include activities such as repairs, replacement and other types of non-routine maintenance. Pavement rehabilitation that does not disturb the underlying soils (e.g., mill and overlay projects) is not construction activity.

Subd. 5. “Dewatering” means the removal of surface or ground water to dry and/or solidify a construction site to enable construction activity. Dewatering may require a Minnesota Department of Natural Resources (“DNR”) water appropriation permit and, if dewatering water is contaminated, discharge of such water may require an individual MPCA NPDES/SDS permit.

Subd. 6. “DNR catchment area” means the Hydrologic Unit 08 areas delineated and digitized by the Minnesota DNR. The catchment areas are available for download at the Minnesota DNR Geospatial Commons website. DNR catchment areas may be locally corrected, in which case the local corrections may be used.

Subd. 7. “Energy dissipation” means methods employed at pipe outlets to prevent erosion caused by the rapid discharge of water scouring soils.

Subd. 8. “Erosion prevention” means measures employed to prevent erosion such as soil stabilization practices, permanent cover or construction phasing.

Subd. 9. “Fully reconstructed” means areas where impervious surfaces have been removed down to the underlying soils. Activities such as structure renovation, mill and overlay projects, and other pavement rehabilitation projects that do not expose the underlying soils beneath the structure, pavement, or activity are not considered fully reconstructed. Maintenance activities such as catch basin repair/replacement, utility repair/replacement, pipe repair/replacement, lighting, and pedestrian ramp improvements are not considered fully reconstructed.

Subd. 10. “General permit” means a permit issued under Minnesota Rules, part 7001.0210 to a category of owners/operators whose operations, emissions, activities, discharges, or facilities are the same or substantially similar.

Subd. 11. “Groundwater” means the water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near surface unconsolidated sediment or regolith, or in rock formations deeper underground.

Subd. 12. “Infeasible” means not technologically possible or not economically practicable and achievable in light of the best industry practices.

Subd. 13. “Initiated immediately” means taking an action to commence soil stabilization as soon as practicable, but no later than the end of the workday, following the day when the land-disturbing activities temporarily or permanently ceased. If construction work on the site will be cease for 14 or more additional calendar days, or seven calendar days on a project that is within one mile (aerial radius measurement) of, and flows to, one or more of the following: “impaired waters”, “other special waters”, “prohibited waters”, and/or “restricted waters” as defined), stabilization can be immediately initiated by:

- (a) Prepping the soil for vegetative or non-vegetative stabilization;
- (b) Applying mulch or other non-vegetative product to the exposed soil area;
- (c) Seeding or planting the exposed area;
- (d) Starting any of the activities in (a) – (c) on a portion of the area to be stabilized, but not on the entire area; or
- (e) Finalizing arrangements to have stabilization product fully installed in compliance with the applicable deadline for completing stabilization.

Subd. 14. “Impaired waters” means a water with an United States Environmental Protection Agency approved total maximum daily load for any of the impairments listed in this item, and waters identified as impaired under section 303(d) of the Clean Water Act for phosphorus (nutrient eutrophication biological indicators), turbidity, TSS, dissolved oxygen or aquatic biota (fish bioassessment, aquatic plant bioassessment and aquatic macroinvertebrate bioassessment).

Subd. 15. “Impervious surface” means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, driveways, parking lots, and concrete, asphalt, or gravel roads. Bridges over surface waters are considered impervious surfaces.

Subd. 16. “Linear project” means construction of new or fully reconstructed roads, trails, sidewalks, or rail lines that are not part of a common plan of development or sale. For example, roads being constructed concurrently with a new residential development are not considered linear projects because they are part of a common plan of development or sale.

Subd. 17. “Municipal separate storm sewer system” or “MS4” means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains:

- (a) Owned or operated by a state, city, town, county, district, association, or other public body, created by or pursuant to state law, having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district, or drainage district or similar entity, or an Indian tribe or an authorized Indian tribe organization, or a designated and approved management Agency under section 208 of the federal Clean Water Act, United States Code, title 33, section 1288, that discharges into waters of the state;
- (b) Designed or used for collecting or conveying stormwater;
- (c) That is not a combined sewer; and
- (d) That is not part of a publicly owned treatment works as defined in 40 CFR 122.2.

Municipal separate storm sewer systems do not include separate storm sewers in very discrete areas, such as individual buildings.

Subd. 18. “National pollutant discharge elimination system” or “NPDES” means the program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act, as amended (33 U.S.C. 1251 et seq. Section 1342 and 40 CFR parts 122, 123, 124 and 450).

Subd. 19. “Natural buffer” means an area of undisturbed cover surrounding surface waters within which construction activities are restricted. Natural buffer includes the vegetation, exposed rock, or barren ground that exists prior to commencement of earth-disturbing activities.

Subd. 20. “Normal wetted perimeter” means the area of a conveyance, such as a ditch or channel, that is in contact with water during flow events that are expected to occur from a two-year, 24-hour storm event.

Subd. 21. “Notice of Termination (NOT)” means the form required for terminating coverage under the Construction General permit.

Subd. 22. “Other special waters” means Trout Lakes identified in Minnesota Rules, part 6264.0050, subp. 2. and Trout Streams listed in Minnesota Rules, part 6264.0050, subpart 4.

Subd. 23. “Owner” means the persons, firm, governmental agency, or other entity on the application submitted and are responsible for compliance with the terms and conditions of this Section.

Subd. 24. “Permanent cover” means surface types that will prevent soil failure under erosive conditions. Examples include: gravel, concrete, perennial cover, or other landscaped material that will permanently arrest soil erosion. Permanent cover consists of a uniform perennial vegetative cover (i.e., evenly distributed, without larger bare areas) with a density of 70 percent of the native background vegetative cover or equivalent permanent stabilization

measures. Permanent cover does not include temporary BMPs such as wood fiber blanket, mulch, and rolled erosion control products.

Subd. 25. “Project(s)” means all construction activity planned and/or conducted under this Section. The project occurs on the site or sites as described in the site plan.

Subd. 26. “Public waters” means all water basins and watercourses described in Minnesota Statutes, section 103G.005, subdivision 15.

Subd. 27. “Prohibited waters” means Boundary Waters Canoe Area Wilderness; Voyageurs National Park; Kettle River from the site of the former dam at Sandstone to its confluence with the Saint Croix River; Rum River from Ogechie Lake spillway to the northernmost confluence with Lake Onamia; Lake Superior North of latitude 47 degrees, 57 minutes, 13 seconds; Lake Superior East of Hat Point; Lake Superior South of the Minnesota-Ontario boundary; Lake Superior West of the Minnesota-Michigan boundary; Boot Lake, Anoka County; Kettle River in sections 15, 22, 23, T 41 N, R 20, Pine County; Pennington Bog, Beltrami County; Purvis Lake-Ober Foundation, Saint Louis County; waters within the borders of Itasca Wilderness Sanctuary, Clearwater County; Iron Springs Bog, Clearwater County; Wolsfeld Woods, Hennepin County; Green Water Lake, Becker County; Blackdog Preserve, Dakota County; Prairie Bush Clover, Jackson County; Black Lake Bog, Pine County; Pembina Trail Preserve, Polk County; and Falls Creek, Washington County.

Subd. 28. “Restricted waters” means Lake Superior, except those portions identified as prohibited special waters above; the Mississippi River in those portions from Lake Itasca to the southerly boundary of Morrison County that are included in the Mississippi Headwaters Board comprehensive plan dated February 12, 1981; Saint Croix River, entire length; Cannon River from northern city limits of Faribault to its confluence with the Mississippi River; North Fork of the Crow River from Lake Koronis outlet to the Meeker-Wright county line; Kettle River from north Pine County line to the site of the former dam at Sandstone; Minnesota River from Lac que Parle dam to Redwood County State Aid Highway 11; Mississippi River from County State Aid Highway 7 bridge in Saint Cloud to northwestern city limits of Anoka; Rum River from State Highway 27 bridge in Onamia to Madison and Rice streets in Anoka; the Lake Trout Lakes identified in Minnesota Rules, part 7050.0335 including those inside the boundaries of the Boundary Waters Canoe Area Wilderness and Voyageurs National Park; and Calcareous Fens listed in Minnesota Rules, part 7050.0335, subpart 1.

Subd. 29. “Sediment control” means methods employed to prevent suspended sediment in stormwater from leaving the site (e.g. silt fences, compost logs and storm drain inlet protection).

Subd. 30. “Stabilize”, “Stabilized”, “Stabilization” means the exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, erosion control blanket, mats or other material that prevents erosion from occurring. Grass seeding, agricultural crop seeding or other seeding alone is not stabilization. Mulch materials must achieve approximately 90 percent ground coverage (typically 2 ton/acre).

Subd. 31. “Stormwater” means precipitation runoff, stormwater runoff, snowmelt runoff, and any other surface runoff and drainage.

Subd. 32. “Structural stormwater BMP” means a stationary and permanent BMP that is designed, constructed, and operated to prevent or reduce the discharge of pollutants in stormwater.

Subd. 33. “Surface water” or “Waters” means all streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private, except that surface waters do not include stormwater treatment systems.

Subd. 34. “Wetlands” (as defined in Minnesota Rules, part 7050.0186, subpart 1a.B.) means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state. Wetlands must have the following attributes:

- (a) A predominance of hydric soils;
- (b) Inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition; and
- (c) Under normal circumstances support a prevalence of such vegetation.

312.03. National Pollutant Discharge Eliminations System/State Disposal System (NPDES/SDS) Permit.

Subdivision 1. Permit Required. The owner of construction activity must apply for coverage under the Minnesota Pollution Control Agency’s Construction Stormwater Permit (Permit No: MNR100001). A Township permit will not be issued until coverage under the MPCA’s Construction Stormwater Permit has been obtained by the applicant.

Subd. 2. Additional Permits. For certain construction activity, various other permits may also be required. The owner of construction activity is responsible for obtaining any other required permits from the Township and other state, federal, or local governmental agencies having any authority over the work to be performed. Typically, such agencies may include, but are not limited to, the U.S. Army Corps of Engineers, the Minnesota Pollution Control Agency, the Minnesota Department of Natural Resources, the Minnesota Department of Transportation, and the State Historical Preservation Office.

312.04. Construction Site Stormwater Runoff Control. The Township hereby adopts and incorporates by reference the erosion, sediment, and waste control standards established by the

Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNR100001 ("CSW Permit") as now constituted and from time to time amended.

Subdivision 1. Site Plan Review.

- (a) The owner of construction activity shall submit a copy of the site plan as part of the permit application for review and confirmation that Section requirements have been met.
- (b) If the permit application is denied, and the Owner would like to proceed with the project, the Owner must revise the permit application, including the site plan, and resubmit.
- (c) Once a permit has been issued/approved, the site plan becomes an enforceable document, and the owner must comply with all requirements identified in the site plan. The owner is also responsible for keeping the stormwater runoff control requirements identified in the site plan up-to-date.

312.05. **Post-Construction Stormwater Management.**

Subdivision 1. Submittal of Site Plans consisting of Post-Construction Plans.

- (a) Site plans must be submitted for review and confirmation that Section requirements have been met, prior to start of construction activity.
- (b) Site plans must consist of:
 - (1) All calculations for the permanent stormwater treatment system;
 - (2) The water quality volume that will be treated through volume reduction practices;
 - (3) Rationale and documentation supporting the location of any off-site permanent stormwater treatment projects; and
 - (4) All legal mechanisms related to long-term maintenance as provided in this Section.

Subd. 2. Post-Construction Stormwater Management BMPs. Post-construction stormwater BMPs must meet the following criteria:

- (a) Designed with accepted engineering practices and in accordance with the design specifications and criteria as outlined in the Permanent Stormwater Design Checklist adopted separately by the Town Board.

- (b) Treat the water quality volume on any project where the sum of the new impervious surface and the fully reconstructed impervious surface equals one or more acres.
- (c) For non-linear projects, water quality volume (calculated as an instantaneous volume) must be calculated as one inch times the sum of the new and the fully reconstructed impervious surface.
- (d) For linear projects, water quality volume (calculated as an instantaneous volume) must be calculated as the larger of one inch times the new impervious surface or one-half inch times the sum of the new and the fully reconstructed impervious surface. Where the entire water quality volume cannot be treated within the existing right-of-way, a reasonable attempt to obtain additional right-of-way, easement, or other permission to treat the stormwater during the project planning process must be made. Volume reduction practices must be considered first, as described in this Section. Volume reduction practices are not required if the practices cannot be provided cost effectively. If additional right-of-way, easements, or other permission cannot be obtained, the owner/operator of construction activity must maximize the treatment of the water quality volume prior to discharge from the Township's MS4.
- (e) Volume reduction practices (e.g., infiltration or other) to retain the water quality volume on-site must be considered first when designing the permanent stormwater treatment system. Wet sedimentation basins and filtration systems are not considered volume reduction practices. If infiltration is prohibited, as described in this Section. Use of an infiltration system other volume reduction practices, a wet sedimentation basin, or a filtration basin may be considered.
- (f) For discharges to a trout stream, the system must be designed so the discharge from the project minimizes any increase in the temperature of trout streams resulting from the one or two year 24-hour precipitation events. This includes all tributaries of designated trout streams located within the same Public Land Survey System ("PLSS") Section. The design must incorporate one or more of the following measures, in order of preference:
 - (1) Provide stormwater infiltration or other volume reduction practices as provided in this Section, to reduce runoff. Infiltration systems must discharge all stormwater routed to the system within 24 hours;
 - (2) Provide stormwater filtration as described in this Section (Filtration System). Filtration systems must discharge all stormwater routed to the system within 24 hours;
 - (3) Minimize the discharge from connected impervious surfaces by discharging to vegetated areas, or grass swales, and through the use of other non-structural controls;

- (4) If ponding is used, the design must include an appropriate combination of measures such as shading, vegetated swale discharges or constructed wetland treatment cells that limit temperature increases. The pond must be designed as a dry pond and should draw down in 24 hours or less; and
 - (5) Other methods that minimize any increase in the temperature of the trout stream.
- (g) Off-site Treatment.
 - (1) For non-linear projects, where the water quality volume cannot cost effectively be treated on the site of the original construction activity, the remaining water quality volume must be addressed through off-site treatment and meet the following requirements (must be selected in the following order of preference):
 - i. Locations that yield benefits to the same receiving water that receives runoff from the original construction activity;
 - ii. Locations within the same DNR catchment area as the original construction activity;
 - iii. Locations in the next adjacent DNR catchment area up-stream; and
 - iv. Locations anywhere within the Township's jurisdiction.
 - (2) Off-site treatment projects must involve the creation of new structural stormwater BMPs or the retrofit of existing structural stormwater BMPs, or the use of a properly designed regional structural stormwater BMP. Routine maintenance of structural stormwater BMPs owned or operated by the Township cannot be used to meet this requirement.
 - (3) Off-site treatment projects must be completed no later than 24 months after the start of the original construction activity.
- (h) Long-term Maintenance.
 - (1) The owner must enter into a long-term maintenance agreement with the Township that documents all responsibilities for long-term operation and maintenance of stormwater treatment practices that are not owned or operated by the Township. At a minimum, the long-term maintenance agreement must include provisions that:
 - i. Allow the Township to conduct inspections of structural stormwater BMPs not owned or operated by the Township,

perform necessary maintenance, and assess costs for those structural stormwater BMPs when the Township determines the owner of that structural stormwater BMP has not ensured proper function;

- ii. Are designed to preserve the Township's right to ensure maintenance responsibility, for structural stormwater BMPs not owned or operated by the Township, when those responsibilities are legally transferred to another party; and
 - iii. Are designed to protect/preserve structural stormwater BMPs. If structural stormwater BMPs change, causing decreased effectiveness, new, repaired, or improved structural stormwater BMPs must be implemented to provide equivalent treatment to the original BMP.
- (i) Permanent Stormwater Management System Design Criteria. Post-construction stormwater management best management practices must be designed with accepted engineering practices and meet design specifications and criteria as outlined in the Permanent Stormwater Design Checklist adopted separately by the Town Board.

312.06. **Right of Entry.** The owner must allow the Township and their authorized representatives to enter all properties at any reasonable time for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the MS4 as often as may be reasonably necessary to determine compliance. These activities include, but are not limited to, the following:

- (a) Conducting investigations or surveys;
- (b) Examining and copying any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permitted activity;
- (c) Inspecting the requirements of this Section; and
- (d) Sampling and monitoring any items or activities pertaining to this Section.

312.07. **Enforcement.**

Subdivision 1. Enforcement Powers. When an owner fails to conform to any provision of this Section within the time stipulated, the Township may take the following actions:

- (a) Issue a stop work order, withhold the scheduling of inspections, and/or withhold the issuance of a certificate of occupancy; and

- (b) Suspend or revoke any permit issued by the Township to the owner/operator for the site in question or any other of the owner/operator' sites within the Township's jurisdiction.

Subd. 2. Emergencies. If circumstances exist such that noncompliance with this Section poses an immediate danger to the public health, safety and welfare, as determined by the Township, the Township may take emergency preventative action to correct the deficiency or hire an independent contractor to correct the deficiency. The issuance of a permit constitutes a right-of-entry for the Township to enter upon the site for the purpose of correcting deficiencies.

Subd. 3. Reimbursement of Costs. The Township may require the owner to reimburse the Township for all costs it incurred in correcting stormwater pollution control deficiencies. If payment is not made within 30 days after costs are incurred by the Township, then the Township may assess the remaining amount against the property as a service charge under Minnesota Statutes, section 366.012, a special charge under Minnesota Statutes, section 429.101, or such other authority available to the Township under law. As a condition of the permit, the owner shall waive notice of any assessment hearing to be conducted by the Township, agree that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights to challenge the amount or validity of such assessment costs related to cleanup or corrective actions taken by the Township.

312.08. Termination of Coverage.

Subdivision 1. Permit Termination Conditions. Permittees must submit a NOT within 30 days after all termination conditions listed in Subdivision 2 of this Subsection are complete. The following are other eligible conditions.

- (a) Permittees must submit a NOT within 30 days after selling or otherwise legally transferring the entire site, including permit responsibility for roads (e.g., street sweeping) and stormwater infrastructure final clean out, or transferring portions of a site to another party. The permittees' coverage under this permit terminates at midnight on the submission date of the NOT.
- (b) Permittees may terminate permit coverage prior to completion of all construction activity if they meet all of the following conditions:
 - (1) Construction activity has ceased for at least 90 days;
 - (2) At least 90 percent (by area) of all originally proposed construction activity has been completed and permanent cover has been established on those areas;
 - (3) On areas where construction activity is not complete, permanent cover has been established; and
 - (4) The site complies with items in Subdivision 2 of this Subsection below.

- (5) Permittees may terminate coverage upon Township approval after submitting information documenting the owner cancelled the project.

Subd. 2. Site Conditions. Permittees must complete all construction activity and must install permanent cover over all areas prior to submitting the NOT.

- (a) Vegetative cover must consist of a uniform perennial vegetation with a density of 70 percent of its expected final growth. Vegetation is not required where the function of a specific area dictates no vegetation, such as impervious surfaces or the base of a sand filter.
- (b) Permittees must clean the permanent stormwater treatment system of any accumulated sediment and must ensure the system meets all applicable requirements in this Subsection and is operating as designed.
- (c) Permittees must remove all sediment from conveyance systems prior to submitting the NOT.
- (d) Permittees must remove all temporary synthetic erosion prevention and sediment control BMPs prior to submitting the NOT. Permittees may leave BMPs designed to decompose on-site in place.
- (e) For residential construction only, permit coverage terminates on individual lots if the lot is sold to the homeowner, structures are finished, and permanent cover has been established. For lots that are sold to the homeowner where permanent cover has not been established, coverage terminates if temporary erosion prevention and downgradient perimeter control is properly installed, and the permittee distributes the MPCA's "Homeowner Fact Sheet" to the homeowner.
- (f) For construction projects on agricultural land (e.g., pipelines across cropland), permittees must return the disturbed land to its preconstruction agricultural use prior to submitting the NOT.

When submitting the NOT, Permittees must include either ground or aerial photographs showing the requirements of paragraph (a) have been met. Permittees are not required to take photographs of every distinct part of the site, however the conditions portrayed must be substantially similar to those areas that are not photographed. Photographs must be clear and in focus and must include the date the photo was taken.

Section 315 – Cable Communications

315.01. **Purpose.** The purpose of this Section is to regulate the construction, installation, operation, repair, maintenance, removal and relocation of facilities and equipment used for the transmission of telecommunications or related services in the public ground of the Town; and to regulate the granting, operation and renewal of cable television franchises within the Town.

315.02. **Definitions.** The following terms shall have the meaning given them in this Section.

Subdivision 1. “Franchisor” means the Town of Le Sauk.

Subd. 2. “Franchisee” means any cable television companies to which the Town may from time to time award a cable communication franchise.

Subd. 3. “FCC” means the Federal Communications Commission of the United States.

Subd. 4. “Company” means a natural or corporate person, business, association, political subdivision, public or private agency of any kind, its successors and assigns, who or which seeks or is required to construct, install, operate, repair, maintain, remove or relocate facilities in the Town.

Subd. 5. “Director” means the Town Board supervisor who oversees Town roads, (or equivalent position at the Town) or his or her designated representative.

Subd. 6. “Facilities” means telecommunications equipment of any kind, including, but not limited to, audio, video, paging, facsimile or similar service, including all trunks, lines, circuits, physical connections, switching equipment, wireless communication equipment of all kinds, and any necessary appurtenances owned, leased or operated by a company on, over, in, under, across or along public ground.

Subd. 7. “Public Grounds” means highways, roads, streets, alleys, public ways, utility easements and public grounds in the Town.

315.03. **Grant of Authority.** The Town Board is authorized to grant cable communications franchises for the installation, operation and maintenance of a cable communications system within the Town. All franchises shall be subject to the terms and performance conditions stated in this Section.

315.04. **Compliance with State and Federal Laws.** The franchisee and the franchising authority shall conform to all state and federal laws and rules regulating cable communications as they become effective.

315.05. **Franchise Terms.** Each franchise or renewal shall have a term as may be stated in the franchise or renewal, but no franchise may be granted or renewed for a term greater than 15 years.

315.06. **Franchise Exclusivity.** No franchise shall be exclusive.

315.07. **Sale or Transfer of the Franchise, Sale or Transfer of Stock.**

Subdivision 1. **Transfer.** Any transfer of a franchise shall be subject to the approval of the franchisor. The franchisor has 120 days from the submission of information regarding the successor's ability to operate in accordance with the terms of this Section to approve or disapprove the transfer. Approval of a transfer shall not be unreasonably denied. Approval may be denied only upon a finding that the successor does not have the ability or capability to operate the franchise in accordance with the terms of this Section and this franchise.

Subd. 2. **Sale or Lease.** No sale or lease of the rights granted herein shall be effective until the successor or lessee shall have filed in the office of the Town Clerk an instrument, duly executed, reciting the fact of such sale or lease, accepting the terms contained herein, and agreeing to perform all conditions required of the franchise. At that time, the successor or lessee shall also file with the Town Clerk a duly executed bond, fully complying with any bonding requirements of this Section.

Subd. 3. **Access to Financial Records.** The Town is granted the authority to audit the franchisee's accounting and financial records upon reasonable notice. The franchisee shall file annually with the Town reports of gross revenues and other information as the Town deems appropriate. Reports of gross revenues shall be open to public inspection.

315.08. **Rates, Rate Change Procedure and Residential Subscriber Contracts.**

Subd. 1. **Rates.** Prior to offering service to any member of the general public, the franchisee shall prepare a clear and concise list of all current subscription rates and charges, including all installation and disconnect charges, charges for optional services and charges or deposits for the use of equipment offered to subscribers for use with the service. A verified copy of this list of rates and charges shall then be filed with the Town Clerk and shall be available for public inspection at the office of the Town Clerk. An amended list of rates and charges shall be prepared and filed with the Town Clerk at any time there is any change or adjustment in the subscription rates and charges.

Subd. 2. **Residential Subscriber Contract.** The franchisee shall file with the Town Clerk a copy of the then current residential subscriber contract, if a written contract exists. If no written contract exists, the franchisee shall file with the Town Clerk a document completely and concisely stating the terms of the residential subscriber contract offered to customers, specifically including the length of the subscriber contract. The subscriber contract, or the summary of the terms of the non-written contract on file with the Town Clerk shall be open to inspection by the public and shall govern the contractual relationship between the franchisee and all subscribers receiving service under the authority of this Section, except service provided to institutions, business premises or multiple housing locations, which service may be governed by separate written contract.

Subd. 3. **Rate Regulations.** With regard to all franchises, the Town reserves the right to seek certification by the FCC to engage in the regulation of rates, and implement reasonable regulations during the term of the franchise as permitted by law or the FCC. The Town shall also reserve the right to regulate rates for the installation and rental of equipment for the hearing impaired.

315.09. **Franchise Administrator.** The Town Clerk shall be responsible for day-to-day municipal administration of a franchise. The Town Board may by resolution, create a Cable Commission and appoint members to this Commission. The Cable Commission shall have such duties and delegations as established by the Town Board, and shall serve the Town Board in an advisory capacity. Members of the Cable Commission shall receive compensation as set by the Board and shall serve at the will of the Board. Establishment of and delegation of duties to the Cable Commission shall be by resolution of the Town Board. The Town Board shall retain ultimate authority for the administration of a franchise.

315.10. **Liability Insurance.** A franchisee shall indemnify and hold harmless the Town at all times during the term of the franchise and shall maintain throughout the term of the franchise insurance as follows:

Liability for damage to property	\$ 300,000.00
Liability for personal injury	\$ 500,000.00 per person
	\$1,500,000.00 per occurrence
Workmen's Compensation coverage as required by State law	

These policies shall insure both the Town and the franchisee with regard to all damages and penalties which they may legally be required to pay as a result of the exercise of the franchise. A franchisee shall provide the Town with evidence of required coverage and shall name the Township as an additional insured.

315.11. **Indemnification.**

Subdivision 1. A franchisee shall hold the Town harmless from any and all claims and actions, litigation and from damage arising out of the construction, erection, installation, maintenance or operation of its property operated by authority of this Section within the jurisdiction of the Town or the negligence of the franchisee's employees in the operation thereof. A franchisee shall defend in the name of the Town any claims made against the Town arising out of the franchise. A franchisee also agrees to hold the Town harmless from and all claims and actions arising from alleged infringements of copyrights.

Subd. 2. Nothing contained in a franchise shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injury to the franchisee's facilities while performing any work connected with grading, regrading or changing the line of any street or public place; or with the construction or reconstruction of any sewer or water system.

315.12. **Performance Bond.** Prior to beginning construction, and within a minimum of three months of the date any franchise becomes effective, the franchisee shall furnish a performance

bond, certificate of deposit or any other type of instrument approved by the Town in the amount as established by the Town, but not to exceed \$75,000. The Town agrees to discontinue said performance bond upon such time as the construction is completed and the Town is satisfied that the performance of the system meets all standards according to this Section.

315.13. **Construction Schedule.** Franchises shall provide service to Town residents within a reasonable time from when the franchise is granted. Absent evidence to the contrary, it shall be presumed that a “reasonable period” is no later than one year from the grant of the franchise.

315.14. **Construction Standards.**

Subdivision 1. **Permits.** The franchisee shall obtain a permit from the proper governmental authority before commencing construction of any communications system, including the opening or disturbance of any street, sidewalk, driveway or public place. If the franchisee fails to meet the conditions of the permit, the franchisor, after reasonable notice to the franchisee, and providing franchisee the opportunity to remedy said complaint, can cause said problem to be remedied and bill the franchisee for the costs incurred in so remedying.

Subd. 2. **Compliance with Codes.** All wire, conduits, cable and other property and facilities of the franchisee shall be located, constructed, installed and maintained in compliance with applicable codes. The franchisee shall keep and maintain all of its property so as not to unnecessarily interfere with the usual and customary trade, traffic or travel upon the streets and public places of the franchise area or endanger the lives or property of any person.

Subd. 3. **Relocation of Wires.** In the event it becomes necessary for the Town to relocate or remove the franchisee’s wires, conduits, cables and other property located in any street, right-of-way or public place to facilitate the undertaking of a public improvement which affects the cable equipment, franchisee shall make all necessary changes in its equipment at its own expense, as requested, upon due notice from the Town Board or its designated officer.

Subd. 4. **Restoration.** Upon completion of the work, the company must restore the general area of the work, including paving and its foundations, to the same condition that existed prior to commencement of the work and must exercise reasonable care to maintain the same condition for two years thereafter. The work must be completed as promptly as weather permits. If the company does not promptly perform and complete the work, remove all direct, rubbish, equipment and material, and restore the public ground to the same condition, the Town may put it in the same condition at the expense of the company. The company must, upon demand, pay to the Town the direct and indirect cost of the work done for or performed by the Town, including but not limited to the Town’s administrative costs. To recover its costs, the Town will first draw on the security posted by the company and then recover the balance of the costs incurred from the company directly by written demand. This remedy is in addition to any other remedies available to the Town.

Subd. 5. **Company Initiated Relocation.** The company must give the Town written notice prior to a company initiated relocation of facilities. A company-initiated relocation must

be at the company's expense and must be approved by the Town, such approval not to be unreasonably withheld.

Subd. 6. Town Required Relocation. The company must promptly and at its own expense, with due regard for seasonal working conditions, permanently relocate its facilities whenever the Town requires such relocation.

Subd. 7. Relocation Where Public Ground Vacated. The vacation of public ground does not deprive the company of the right to operate and maintain its facilities in the Town. If the vacation proceedings are initiated by the company, the company must pay the relocation costs. If the vacation proceedings are initiated by the Town or other persons, the company must pay the relocation costs unless otherwise agreed to by the Town, company and other persons.

Subd. 8. Inspection of Work. When the work is completed, the company must request an inspection by the director. The director will determine if the work has been satisfactorily completed and provide the company with a written report of the inspection and approval.

Subd. 9. Notice. If the company is in default in the performance of the work authorized by the permit, including but not limited to restoration requirements, for more than 30 days after receiving written notice from the Town of the default, the Town may terminate the rights of the company under the permit. The notice of default must be in writing and specify the provisions of the permit under which the default is claimed and state the grounds of the claim. The notice must be served on the company by personally delivering it to an officer thereof at its principal place of business in Minnesota or by certified mail to that address.

Subd. 10. Town Action on Default. If the company is in default in the performance of the work authorized by the permit, the Town may, after the above notice to the company and failure of the company to cure the default, take such action as may be reasonably necessary to abate the condition caused by the default. The company must reimburse the Town for the Town's reasonable costs, including costs of collection and attorney fees incurred as a result of the company default. The security posted under this Section, will be applied by the Town first toward payment for such reimbursement.

Subd. 11. Use of Public Ground. Facilities must be located, constructed, installed, maintained or relocated so as not to endanger or unnecessarily interfere with the usual and customary traffic, travel, and use of public ground. The facilities are subject to additional conditions of the permit as established by the director including but not limited to (i) the right of inspection by the Town at reasonable times and places; (ii) the obligation to relocate the facilities pursuant to this Section; and (iii) compliance with all applicable regulations imposed by the Minnesota Public Utilities Commission, Minnesota Rules, Part 7819.0050 et seq., and other state and federal law, including prompt compliance with the requirements of the Gopher State One Call program, Minnesota Statutes, chapter 216D.

Subd. 12. Location. The facilities must be placed in a location agreed to by the Town. The company shall give the Town 45 days' advanced written notice of the company's proposed location of facilities within the public ground. No later than 45 days after the Town's receipt of

the company's written notice, the Town will notify the company in writing of the Town's acceptance or rejection of the proposed location. If the Town rejects the company's proposed location, the Town shall propose alternative locations. The Town does not waive or forfeit its right to reject the location of facilities by failure to respond within the 45 days.

Subd. 13. Emergency Work. A company may open and disturb the surface of public ground without a permit where an emergency exists requiring the immediate repair of its facilities. In such event, the company must request a permit not later than the second working day thereafter and comply with the applicable conditions of the permit. In no event, may the company undertake such an activity which will result in the closing of a street or alley without prior notification to the Town.

Subd. 14. Street Improvements, Paving and Resurfacing. The Town will give the company written notice of plans for street improvements where permanent paving or resurfacing is involved. The notice must contain (i) the nature and character of the improvements; (ii) the streets upon which the improvements are to be made; (iii) the extent of the improvements, the time when the Town will start the work; and (iv) if more than one street is involved, the sequence in which the work is to proceed.

Subd. 15. Company Protection of Facilities. The company must take reasonable measures to prevent the facilities from causing damage to persons or property. The company must take reasonable measures to protect its facilities from damage that could be inflicted on the facilities by persons, property, or the elements. The company must take specific protective measures when the Town performs work near the facilities.

Subd. 16. Prior Service Connections. In cases where the Town is undertaking the paving or resurfacing of streets and the facilities are located under such street, the company may be required to install service connections prior to the paving or resurfacing, if it is apparent that service will be required during the five year period following the paving or resurfacing.

Subd. 17. Public Ground Other than Right-of-Way. Nothing in this Section is intended to grant to the company authority beyond that given by Minnesota Statutes, section 222.37 or Minnesota Rules, Part 7819.0050, et seq., for use of the public right-of-way for construction and operation of facilities. If the Town allows the company to use its non-right-of-way public ground, the terms of this Section apply to the extent they are consistent with the contract, statutory and common law rights the Town owns in such property.

Subd. 18. Regulations; Permit Schedules. The director is authorized and directed to prepare suitable regulations and schedules for the administration of permits issued under this Section.

315.15. **Special Testing**. At any time after commencement of service to subscribers, the Town may require additional tests, full or partial repeat tests, different test procedures or tests involving a specific subscriber's terminal. Requests for such tests will be made on the basis of complaints received or other evidence indicating an unresolved controversy or significant noncompliance;

and such tests will be limited to the particular matter in controversy. The cost of said testing shall be borne by the franchisee.

315.16. Subscriber Privacy.

Subdivision 1. No signals of a Class IV cable communications channel may be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one year which shall be renewable at the option of the subscriber. No penalty shall be invoked for a subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the subscriber without penalty of any kind whatsoever. Such permission shall be required for each type or classification of Class IV cable communications activity planned for the purpose.

Subd. 2. No information or data obtained by monitoring transmission of a signal from a subscriber terminal, including but not limited to lists of the names and addresses of the subscribers or any lists that identify the viewing habits of subscribers may be sold or otherwise made available to any party other than the franchisee and its employees for internal business use, or to the subscriber subject of that information, unless the franchisee has received specific written authorization from the subscriber to make the data available.

Subd. 3. Written permission from the subscriber shall not be required for the systems conducting system-wide or individually addressed electron sweeps for the purpose of verifying system integrity or monitoring for the purpose of billing.

315.17. Subscriber Complaints.

Subdivision. 1. All franchises shall conduct their business in accordance with the customer service standards established by the FCC and 47 C.F.R. § 76.309.

Subd. 2. All complaints by the Town or other citizens regarding the quality of service, equipment malfunction, billing disputes, and any other matters relative to a franchise granted pursuant to this Section shall be investigated by the franchisee within two business days and resolved by the franchisee. Any complaints not resolved to the satisfaction of the complaining party, shall be communicated to the Town. A record of unresolved complaints may be retained by the Town and may be considered by the Town Board in making decisions relating to the franchise.

Subd. 3. A franchisee shall provide to the subscriber a toll-free or collect telephone number for the reception of subscriber complaints and the franchisee shall maintain a repair service capable of responding to subscriber complaints or requests for service within 24 hours after receipt of the complaint or request. Costs included in making repairs and adjustment shall be borne by the franchisee unless it can be clearly determined that the repair or adjustment was

made necessary by abuse or intentional misuse of the system by the subscriber. Costs of installation shall be borne by the subscriber.

315.18. Unlawful Denial.

Subdivision 1. A franchisee shall not deny access to cable service because of the income of a resident.

Subd. 2. A franchisee shall not deny access to cable service to a geographical area of the Town because of income demographics.

315.19. Termination. The franchising authority shall have the right to terminate and cancel any franchise and all rights and privileges of a franchise, if the franchisee attempts to evade any of the provisions of the franchise or this Section, practices any fraud or deceit upon the Town or its customers, or fails to operate the franchise in accordance with this Section. The Town shall provide the franchisee with a written notice of the cause for termination and its intent to terminate the franchise and shall allow the franchisee a minimum of 30 days after service of the notice in which to correct the violation. The franchisee shall be provided the opportunity for a public hearing before the Town Board prior to the termination of the franchise. In the event that the franchisor determines to terminate the franchise, the franchisee has 30 days from the date of termination of the franchise to take such available action challenging the termination, as provided by law, or its right to challenge termination is waived.

315.20. Abandonment. The franchisee may not abandon any portion of the cable communications service provided under a franchise without prior written notice to the Town.

315.21. Removal of Cable Equipment Upon Termination or Forfeiture. Upon termination or forfeiture of a franchise, the franchisee shall remove, if the franchising authority so requests, all of its plants, structures, works, pipes, mains, conduits, cables, poles and wires and refill at its own expense any excavation that shall be made by it and shall leave said streets, alleys, public ways and places, in as good condition as that prevailing prior to the franchisee's removal of equipment and appliances. In the event the franchisee fails to do so, the franchisee shall pay to the franchisor as liquidated damages 125 percent of the cost of removal.

315.22. Town Right to Purchase System. The Town shall have the right to purchase any franchise or cable system offered for sale pursuant to the same terms and conditions of any bona fide offer to purchase. The franchisee shall provide the Town with a copy of the bona fide written offer, and the Town has 60 days of receipt to exercise its option to purchase. The purchase option shall be exercised in writing. If not exercised within 60 days of notice, the Town's right to purchase is forfeited with respect to that offer, but only that offer.

315.23. Access Channels.

Subdivision. 1. Franchise. A franchisee shall provide to each of its subscribers who receive some or all of the services offered on the system, reception on at least one specially designated access channel. The specially designated access channel may be used by local

educational authorities and local government on a first-come, first served nondiscriminatory basis. During those hours that the specially designated access channel is not being used by the local educational authorities or local government, the franchisee may lease time to commercial or noncommercial users on a first-come, first served nondiscriminatory basis if the demand for that time arises. The franchisee may also use this specially designated access channel for local origination during those hours when the channel is not in use by local educational authorities, local government, or commercial or non-commercial users who have leased time.

Subd. 2. The Town reserves the right to establish rules for the administration of the specially designated access channel and establish reasonable rates for the use and administration of the access channel.

Subd. 3. Franchisees providing only alarm services or only data transmission services for computer-operated functions do not need to provide access channel reception to alarm and data service subscribers.

315.24. **Franchise Fee.**

Subdivision. 1. During the term of any franchise granted hereunder, the franchisee shall pay to the Town quarterly a franchise fee in accordance with the terms of the resolution granting the franchise. The franchise fee shall not exceed five percent of gross revenues. If a franchise fails to state a fee, a fee based on four percent of gross revenues shall be assumed.

Subd. 2. "Gross Revenues" are defined to include revenue derived from the Town system from basic television service, pay cable, advertising, auxiliary services, equipment rental and installation charges.

315.25. **Non-Interference.** Installations shall be maintained so as not to interfere with television reception already in existence within the Town.

315.26. **Line Extension.** The Town shall have the right to require reasonable extensions of the franchisee's transmission and distribution system from time to time, and to make such rules and regulations as may be required to secure adequate and proper service and to provide accommodations for the public. The Town may not require an extension into areas where there are less than 25 residential units per mile of trunk or distribution cable as is required.

315.27. **Obscenity.**

Subdivision 1. For purposes of this Section, "obscenity" shall mean a program when, to the average person applying contemporary community standards, the program taken as a whole, appeals to the prurient interest; the program depicts or describes, in a patently offensive way, sexual conduct that is patently offensive, representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated or patently offensive representations or descriptions of masturbation, excretory functions or lewd exhibition of genitals; and the program taken as a whole lacks serious literary, artistic, political or scientific value.

Subd. 2. It shall be a misdemeanor to originate or produce any obscene program which is transmitted over any cable communications system. However, neither the cable communications franchisee whose facilities are used to transmit a program produced by a person other than the cable communications franchisee, nor the officers, directors, or employees of the cable communications franchisee, shall be liable for any penalty or damages arising from any obscene program presented thereon when the franchisee or its employees does not originate or produce a program. Any entity which schedules the programming of the access channels of a cable communications system shall not be liable for the presentation of any obscene program thereon unless the entity itself originates or produces the program.

Subd. 3. Contradictions with State or Federal Law. Any provision of this Section or a franchise which are in direct contradiction to any state or federal law, rule or regulation of cable television franchising, shall be deemed invalid but only to the extent of the contradiction. All other portions of this Section shall continue in full force and effect. As may be possible, all provisions of this Section shall be construed in a manner consistent with state or federal law so as to maintain the validity of those provisions.

315.28. **Additional Franchise Requirements.** All cable communication franchises shall also be subject to the following terms and conditions:

Subdivision 1. The franchisee shall provide for citizen participation in selecting programming, and consider citizen preference.

Subd. 2. The franchisee shall provide customers with reasonable notice of rate changes. "Reasonable notice" shall be a minimum of 30 days.

Subd. 3. The franchisee shall offer customers a device to allow channels to be blocked out.

Subd. 4. All franchises shall be subject to review and renegotiation at any time in the event of a significant change in technology, equipment or regulatory laws, or if the service provided by the franchise fails to meet industry standards with respect to channel capacity, system reliability or quality of signal.

315.29. **Franchise Terms.** All franchises granted pursuant to this Section shall be considered to have incorporated the terms of this Section by reference. In granting a franchise, the Town may incorporate additional terms and conditions, as permitted by law.

315.30. **Enforcement.** The Town reserves the right to enforce any violation of this Section by seeking declaratory or injunctive relief in Stearns County District Court. In the event the Town is the prevailing party in any such action, the Town shall be entitled to judgment for reasonable attorney's fees incurred in pursuing the action.

CHAPTER IV PUBLIC HEALTH AND SAFETY

Section 400 – Public Nuisances

400.01. **Public Nuisance Prohibition.** A person must not act, or fail to act, in a manner that is or causes a public nuisance. For purposes of this Section, a person that does any of the following is guilty of maintaining a public nuisance:

- (a) Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
- (b) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- (c) Does any other act or omission declared by law or this Section to be a public nuisance.

400.02. **Public Nuisances Affecting Health.** Each of the following are hereby declared to be public nuisances affecting health:

- (a) Exposed accumulation of decayed or unwholesome food or vegetable matter, except for such matter placed in legitimate compost heaps;
- (b) All diseased animals running at large;
- (c) All ponds or pools of stagnant water;
- (d) Carcasses of animals not buried or destroyed within 24 hours after death;
- (e) Accumulations of manure, refuse, garbage, or other debris not contained in tight-covered receptacles;
- (f) Privy vaults and garbage cans which are not rodent-free or fly-tight, or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- (g) The pollution of any public well or cistern, stream, lake, canal, or other body of water by sewage, industrial waste, or other substances;
- (h) All noxious weeds and other rank growths of vegetation upon public or private property;
- (i) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;

- (j) All public exposure of persons knowingly having a contagious disease;
- (k) Any offensive trade or business as defined by statute not operating under local license; and
- (l) Sewage, septic system effluent or seepage from a soil treatment system which may constitute a health hazard, emit foul and disagreeable odors, or otherwise threaten or damage real or personal property of others.

400.03. **Public Nuisances Affecting Morals and Decency.** Each of the following are hereby declared to be nuisances affecting public morals and decency:

- (a) All gambling devices, slot machines and punch boards except as otherwise authorized and permitted by federal, state, or local law;
- (b) Betting, bookmaking and all apparatus used in those occupations;
- (c) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;
- (d) All places where intoxicating liquor or 3.2 percent malt liquor is manufactured or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purpose of drinking intoxicating or 3.2 percent malt liquor, or where intoxicating or 3.2 percent malt liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining such a place; and
- (e) Any vehicle used for the unlawful transportation of intoxicating or 3.2 percent malt liquor, or for promiscuous sexual intercourse or any other immoral or illegal purpose.

400.04. **Public Nuisances Affecting Peace and Safety.** Each of the following are declared to be nuisances affecting public peace and safety:

- (a) All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection;
- (b) All structures, wires and limbs of trees which are less than eight feet above the surface of the ground that hang over any street right-of-way;
- (c) Obstructions and excavations affecting the ordinary use by the public of streets, alleys or public grounds except under such conditions as are permitted by this Code or other applicable law;
- (d) Radio aerials or television antennae erected or maintained in a dangerous manner;

- (e) All interference and disturbance of radios and television sets caused by electrical appliances and equipment or improper operation thereof;
- (f) All use or display of fireworks and use of explosives except as allowed by law;
- (g) Any use of property abutting on a public street or any use of a public street which causes large crowds to gather or obstructs traffic or the free use of the street;
- (h) All hanging signs, awnings and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by this Code;
- (i) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- (j) Wastewater cast upon or permitted to flow upon streets or other public property;
- (k) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material, in a manner conducive to the harboring of rats, mice, snakes or vermin or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or other safety hazards from such accumulation;
- (l) The storage in any area open to the public, of any unused icebox, refrigerator, freezer or other box with a door attached thereto, which will effectively exclude air when shut;
- (m) Any well, hole, basement, or similar excavation that is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- (n) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash, debris or other materials;
- (o) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or any other substance which may injure any person or animal or damage any vehicle tire when passing over such material;
- (p) The depositing of garbage or refuse on a public right-of-way, public property or on adjacent private property, except if placed inside tightly sealed containers which are placed specifically for garbage or refuse pick up by an authorized public or private contractor;
- (q) Any unattended vehicle which constitutes an obstruction to traffic or hinders snow removal or street maintenance or improvement;

- (r) Any abandoned or junk vehicle as defined in the Minnesota Statutes;
- (s) All trees, hedges, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
- (t) Any person participating in any party or other gathering that causes the unreasonable disturbing of the peace, quiet or repose of another person;
- (u) All unnecessary and annoying vibrations;
- (v) The allowing of rainwater, ice or snow to fall from any building or structure upon any street;
- (w) Reflected glare or light from private exterior lighting exceeding 0.5 foot candles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one foot candle when abutting any commercial or industrial parcel; and
- (x) All other conditions or things which are likely to cause injury to the person or property of another.

400.05. Noise Nuisances.

Subdivision 1. Prohibited Noises. Each of the following are declared to be nuisances affecting public health, safety, peace or welfare:

- (a) Any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of any person or precludes his or her enjoyment of property, or affects his or her property's value;
- (b) All obnoxious noises, motor vehicle or otherwise, in violation of Minnesota Rules, chapter 7030;
- (c) The use of any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling or other noise;
- (d) The discharging of the exhaust or permitting the discharge of the exhaust of any statutory internal combustion engine, motor boat, motor vehicle, motorcycle, all-terrain vehicle (ATV), snowmobile or any recreational device, except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;
- (e) Any loud or excessive noise in the loading, unloading or unpacking of any vehicle; and

- (f) The use or operation, or permitting the use or operation, of any radio receiving set, television set, musical instrument, music device, paging system, machine, or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet, and comfort of any person nearby.

Subd. 2. Hourly Restriction of Certain Operations.

- (a) Domestic Power Equipment. No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or other similar domestic power equipment, except between the hours of 7:00 a.m. and 10:00 p.m. Snow removal equipment is exempt from this provision.
- (b) Refuse Hauling. No person shall collect or remove garbage or refuse in any residential district, except between the hours of 7:00 a.m. and 10:00 p.m.
- (c) Construction Activities. No person shall engage in or permit construction activities involving the use of any kind of electric, diesel or gas-powered machine or other power equipment, except between the hours of 7:00 a.m. and 10:00 p.m.
- (d) Radios, Music Devices, Paging Systems, etc. The operation of any device referred to in Section 400.05 between the hours of 10:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside of a structure or building shall be prima facie evidence of a violation of this Section.

Subd. 3. Scope of Restrictions. Persons who are in control of, own, or possess a premises may also be found to be in violation of this Section if they knowingly allow the making of the noise on the premises. For purposes of this Section, the term “premises” is defined as:

- (a) For a parcel of real property subject to a single or common fee or leasehold interest, the premises shall consist of the entire parcel of real property and all buildings or structures contained thereon.
- (b) For a parcel of real property subject to multiple fee or leasehold interests, each particular area of the parcel, and buildings or structures contained thereon, subject to exclusive control and occupation by the particular party holding a fee or leasehold interest, shall constitute a separate premises under the control of the person holding the interest.

400.06. Abandoned Property.

Subdivision 1. Purpose. The Town Board finds that abandoned property constitutes a public nuisance and hazard to the health and welfare of the people of the Town in that such

property can harbor noxious diseases, furnish shelter and breeding places for vermin and present physical danger to the safety and well-being of children and other citizens.

Subd. 2. Definitions. The following terms shall have the meaning given them in this Section.

- (a) “Abandoned property” means trailers, boats, machinery, appliances, plumbing fixtures, furniture, scrap metal, packing material, mattresses, motorized vehicles, construction debris, farm machinery, motors, engines, lawn mowers and other inoperable, dissembled or otherwise deteriorated property that is in such a condition that it can no longer be properly used for the purpose it was originally produced or property that has no value other than scrap or junk value.

Subd. 3. Maintenance of Abandoned Property. No person shall keep, place, store or permit abandoned property to be placed on any real property which he or she owns or controls, unless it is stored within a building.

Subd. 4. Exceptions.

- (a) Agricultural. Equipment being used for parts and repairs incidental to the operation and maintenance of a farming operation on property zoned agricultural is excepted from the provisions of this Section provided that the equipment is located at least 300 feet from any abutting residentially zoned property line.
- (b) Commercial and Industrial. This Section does not prohibit a person in the business of servicing or repairing abandoned property from storing the property under repair at a business premises that is either zoned commercial or industrial for a period not to exceed 20 days while awaiting repair.
- (c) Awaiting Removal. This Section does not prohibit a person from keeping abandoned property outside of a building for a period not to exceed 48 hours while awaiting removal of the abandoned property for lawful disposal, or within a rental container which is designed and manufactured for rubbish disposal for up to seven days while awaiting removal and lawful disposal.

400.08. Enforcement Duties of Officers. The Town Clerk and Building Inspector shall enforce the provisions of this Section relating to nuisances affecting health and duly authorized county or state health officers may enforce such provisions. The Town Board shall assist such officers in such enforcement. The Town Clerk, Town Board, and county sheriff shall enforce the provisions of this Section relating to nuisances affecting public safety and such officers have the power to inspect public and private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances; however, except in cases of emergency imminently dangerous to the public health, safety or welfare, such inspections must be done pursuant to a search warrant issued by a court of competent jurisdiction if access to private premises for such inspection is denied by the owner or occupant.

400.09. Abatement.

Subdivision 1. Notice. Whenever the Town officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the Town, the officer shall notify in writing the owner or occupant of the premises of such fact and order that such nuisance be terminated and abated. The notice shall be given by personal delivery or by certified mail. If the premises are not occupied and the owner is unknown, the notice may be posted on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding 30 days, within which the nuisance is to be abated. The notice shall also specify that the owner or occupant upon whom the notice is served may request, in writing to the Town Clerk, a hearing before the Town Board. Such hearing must be requested before the deadline for abatement stated in the notice or within 10 days of the date of the notice, whichever date is longer. If the notice is posted, 30 days must elapse between the day of posting and the deadline for abatement. If the notice is not complied with within the time specified, and a hearing has not been requested, the enforcing officer shall take immediate steps to abate the nuisance. If a hearing has been requested, such action may not take place until after the hearing and the Town Board has rendered its decision.

Subd. 2. Emergency Situations. Whenever a situation exists that immediately endangers the lives or health of the public, and under which the above notification procedures would be impractical, the enforcing officer may take immediate steps to abate the nuisance, and such action shall be immediately reported to the owner or occupant and the Town Board.

400.10. Recovery of Costs.

Subdivision 1. Personal Liability. The owner of premises on which a nuisance has been abated by the Town shall be personally liable for the cost to the Town of the abatement, including administrative costs and attorneys' fees. As soon as the work has been completed and the cost determined, the Town Clerk shall prepare a bill for the cost and mail it to the owner. Thereupon, the amount shall be immediately due and payable at the office of the Town Clerk.

Subd. 2. Certification. On or before October 1 following abatement of a nuisance by the Town, the Town Clerk shall list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed against each separate lot or parcel to which the nuisance abatement charges are attributable. The Town Board may then spread the charges against such property for certification to the county auditor for collection by the county treasurer and paid to the Town as other taxes are collected and paid.

Section 405 – Junk, Abandoned and Unlicensed Vehicles

405.01. **Abandoned Motor Vehicle Law Adopted by Reference.** Minnesota Statutes, chapter 168B, is, except as modified by this Section, hereby adopted by reference and is as much a part of this Code as if fully set forth herein. A violation of the statutes adopted herein by reference is a violation of this Code.

405.02. **Policy; Purpose; Findings.** The Town Board has found and determined: (i) that the presence of junk, abandoned, unlicensed and unauthorized vehicles on public and private property in the Town constitutes a public health and safety hazard; (ii) that in many instances junk, abandoned, unlicensed and unauthorized vehicles are kept on private property by the owners of the property themselves or by others with the consent of the property owner; and (iii) that it is necessary to adopt regulations for the removal of junk, abandoned, unlicensed and unauthorized vehicles from property that are more stringent than those contained in Minnesota Statutes, chapter 168B.

405.03. **Definitions.** The following terms shall have the meaning given them in this Section.

Subdivision 1. “Abandoned vehicle” means a vehicle defined as an “abandoned vehicle” by Minnesota Statutes, section 168B.011.

Subd. 2. “Junk vehicle” means a vehicle defined as a “junk vehicle” by Minnesota Statutes, section 168B.011.

Subd. 3. “Unlicensed vehicle” means a vehicle which is not properly licensed for operation.

Subd. 4. “Unauthorized vehicle” means a vehicle that is subject to removal and impoundment pursuant to Minnesota Statutes, section 168B.04 or 168B.035, but is not a junk vehicle or an abandoned vehicle.

405.04. **Storing or Parking of Vehicles Prohibited.** It is unlawful for any person to park, store or leave any abandoned, unlicensed, unauthorized or junk vehicle, upon any public or private property within the Town, or for any person, as an owner of or occupant having control of private property within the Town to permit the parking, storing or leaving of any abandoned, unlicensed, unauthorized or junk vehicle upon such private property, unless such vehicle is within an enclosed building or structure lawfully situated upon private property or is so parked, stored or left upon private property lawfully zoned and operated as a junk yard.

405.05. **Impounding of Vehicles.** The Town may take into custody and impound any abandoned, unlicensed, unauthorized or junk vehicles that are being stored or parked in violation of this Section.

405.06. **Notice.** When an abandoned, unlicensed, unauthorized or junk vehicle is taken into custody and impounded, the Town must give mailed written notice of its taking to the registered vehicle owner and any lienholders within five days, excluding Saturdays, Sundays and legal holidays. If it is impossible to determine with reasonable certainty the identity and address of the

registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed from or abandoned. The notice must include all information required by Minnesota Statutes, section 168B.06.

405.07. **Unauthorized Vehicle; Second Notice.** If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent under this Section, a second notice must be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lienholders of record.

405.08. **Right to Reclaim.** With the exception of unauthorized vehicles, the owner or any lienholder of an impounded vehicle has the right to reclaim the vehicle from the Town upon payment of all towing and storage charges resulting from the taking of the vehicle into custody within 15 days after the date of the notice required by this Section. The owner of an unauthorized vehicle has the right to reclaim the vehicle from the Town upon payment of all towing and storage charges resulting from the taking of the vehicle into custody within 45 days after the date of the notice required by this Section.

405.09. **Disposition of the Vehicle.** If a vehicle is not reclaimed within the time period set forth in this section, the Town may dispose of or sell the vehicle at auction or sale in accordance with the procedures set forth in Minnesota Statutes, chapter 168B.

Section 410 - Animals

410.01. **Definitions.** The following terms shall have the meaning given them in this Section.

Subdivision 1. “Animal” means any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. “Animals” shall be classified as follows:

- (a) “Domestic animals” means those animals commonly accepted as domesticated household pets. Unless otherwise defined, “domestic 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;
- (b) “Farm animals” are those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, “farm 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 and other animals associated with a farm, ranch or stable;
- (c) “Nondomestic animals” means those animals commonly considered to be naturally wild and not naturally trained or domesticated or which are commonly considered to be inherently dangerous to the health, safety and welfare of people. Unless otherwise defined, “nondomestic animals” shall include:
 - (1) Any member of the large cat family (family Felidae), including lions, tigers, cougars, bobcats, leopards and jaguars but excluding commonly accepted domesticated house cats;
 - (2) Any naturally wild member of the canine family (family Canidae), including wolves, foxes, coyotes, dingos and jackals but excluding commonly accepted domesticated dogs;
 - (3) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet;
 - (4) 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;
 - (5) Any poisonous, venomous, constricting or inherently dangerous member of the reptile or amphibian families, including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators;

- (6) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys and game fish.

Subd. 2. “At large” means off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain or otherwise restrained or confined.

Subd. 3. “Cat” means both the male and female of the Felidae species commonly accepted as domesticated household pets.

Subd. 4. “Dog” means both the male and female of the canine species, commonly accepted as domesticated household pets and other domesticated animals of a dog kind.

Subd. 5. “Owner” means any person or persons, firm, association or corporation owning, keeping or harboring an animal.

410.02. **Running at Large Prohibited.** It shall be unlawful for any person who owns, harbors or keeps a dog or cat, or the parents or the guardians of any such person under 18 years of age, to allow the dog or cat to run at large. Dogs or cats shall be 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 or by leash, but are permitted in streets or on public land unless the Town has posted an area with signs prohibiting dogs or cats.

410.03. **Nondomestic Animals.** It shall be illegal for any person to own, possess, harbor or offer for sale any nondomestic animal within the Town. Any owner of a nondomestic animal at the time of adoption of this Section shall have 30 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 a licensed show or exhibition.

410.04. **Farm Animals.** Farm animals shall only be kept in an agricultural district of the Town. An exception shall be made to this section for those animals brought into the Town as part of an operating zoo, veterinarian clinic, scientific research laboratory or a licensed show or exhibition.

410.05. **Impounding.**

Subdivision 1. **Impounding Services.** The Town Board may contract with the Tri-County Humane Society or other entity to provide impound services. The terms, conditions and fees of impound contained in the Town’s impound contract shall apply to the impounding of any animal as if fully set forth in this Code.

Subd. 2. Running at large. Any animal running at large is hereby declared a public nuisance and may be impounded at the direction of a member of the Town Board or the Town Clerk. The Town shall give notice of the impounding to the owner of the dog or other animal, if known. If the owner is unknown, the Town shall post notice at the Town office that if the dog or other animal is not claimed within the time specified in subdivision 3 of this Section it will be sold or otherwise disposed of. Except as otherwise provided in this Section, it shall be unlawful to kill, destroy or otherwise cause injury to any animal, including dogs and cats running at large.

Subd. 3. Biting animals. Any 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 10 days, at the expense of the owner. The animal may be released at the end of the time if healthy and free from symptoms of rabies and upon payment of all costs by the owner. Alternatively, the owner of the animal may elect to immediately, upon receipt of notice of need for the confinement by the officer, confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the county in which the Town is located, and promptly provide proof of confinement in a form acceptable to the Town. 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 for the required period.

Subd. 4. Reclaiming. All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous dog as defined in Section 410.11, in which case it shall be kept for seven regular business days or the times specified in Section 410.11, and except if the animal is a cruelly-treated animal, in which case it shall be kept for 10 regular business days, unless sooner reclaimed by its owner or keeper as provided by this Section. 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 Code or by the Town:

- (a) Payment of any release fees;
- (b) Payment of any maintenance costs, as provided by the pound, per day or any part of the day while the animal is in the pound; and
- (c) If a dog designated as dangerous is seized by the Town, it may be reclaimed pursuant to the requirements of this Section and Minnesota Statutes, section 347.54.

Subd. 5. Unclaimed Animals. With the exception of dangerous dogs that have been seized pursuant to Minnesota Statutes, section 347.54, at the expiration of the times established in subdivision 4 of this Section, 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 or adopt the animal by complying with all provisions in this Section or 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 Section shall be payable to the Town Clerk. Unpaid amounts

shall be certified to the county for collection with the owner's property taxes. The destruction of dangerous dogs shall be conducted pursuant to the requirements of this Section and Minnesota Statutes, sections 347.54 and 347.56.

410.06. **Kennels.**

Subdivision 1. Definition of a Kennel. The keeping of four or more dogs, cats, or other domestic animals on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a "kennel".

Subd. 2. Findings and Prohibition. The Town Board finds and determines the keeping of a kennel within the Town increases the potential for the animals within the kennel to be abused or neglected and can cause discomfort to persons in the area by way of smell, noise, hazard and general aesthetic depreciation. As such, the keeping of a kennel within the Town is hereby declared to be a nuisance, is prohibited, and is a violation of this Section.

Subd. 3. Exceptions. This Section regarding kennels does not apply to properly zoned commercial pet and animal stores; to veterinarians providing medical care; to keeping a newly born litter of pups for a period of 90 days or if a person receives no more than one dog from a recognized animal humane or animal rescue society that has been rescued from abandonment or an abusive situation and the Town is notified prior to receipt of the dog and is provided information as to where the dog came from and the Town is allowed to monitor the progress of the dog. The person rescuing the dog is responsible for the care and expenses of the dog until such time as the dog in the opinion of the animal humane or rescue society determines that the dog can be adopted.

410.07. **Nuisances.**

Subdivision 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 five minutes with less than one minute of interruption. The barking must also be audible off of the owner's or caretaker's premises. Similar habitual noises by other animals such as cats are also unlawful.

Subd. 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.

Subd. 3. Animal Waste. The owner of any animal or person having the custody or control of any animal shall comply with the following:

- (a) Clean up any feces of the animal and disposing of the feces in a sanitary manner, whether on the owner's property, on the property of others, or on public property;
- (b) When on public property or private property owned by others have in immediate possession a device for the removal of feces and depository for the transmission

of excrement to a proper receptacle located on the property owned or possessed by such person;

- (c) Properly dispose of animal feces by burying it, when lawfully permitted, flushing in the toilet, or bagging it for disposal in a waste receptacle;
- (d) Disposal of animal waste in storm drains is prohibited; and
- (e) Disposal of animal waste in public compost is prohibited.

The provisions of this subdivision shall not apply to the ownership or use of any properly identified service animals, animals when used for police activities, or tracking animals when used by or with the permission of the appropriate authorities.

Subd. 4. Impoundment. Any animals kept contrary to this Section are subject to impoundment as provided in Section 410.05.

410.08. **Seizing of Animals.** The Town or its authorized officers may enter upon private property and seize any animal, provided that the following exist:

- (a) There is an identified complainant other than the officer making a contemporaneous complaint about the animal;
- (b) The officer reasonably believes that the animal meets either the habitual barking criteria set out in Section 410.07, subdivision 1, the criteria for cruelty set out in Section 410.12 or the criteria for an at large animal set out in Section 410.05, subdivision 2;
- (c) The officer can demonstrate that there has been at least one previous complaint of habitual barking, inhumane treatment of the animal or that the animal was at large at this address on a prior date;
- (d) The officer has made a reasonable attempt to contact the owner of the dog and the property to be entered and those attempts have either failed or have been ignored;
- (e) The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper or other authorized person to have that key shall not be considered unauthorized entry; and
- (f) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

410.09. **Animals Presenting a Danger to the Public's Health and Safety.** If, in the reasonable belief of the officer, an animal presents an immediate danger to the health and safety of any person, the animal is threatening imminent harm to any person or the animal is in the process of attacking any person, the officer may, as a last resort, destroy the animal in a proper manner.

Otherwise, the officer may apprehend the animal and deliver it to the pound for confinement under Section 410.05. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the Town for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the Town, it may be released to the owner or keeper in accordance with Section 410.05, subdivision 4.

410.10. **Diseased Animals.**

Subdivision 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 public.

Subd. 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 the Town. The Town shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the public, the Town shall cause the animal to be humanely destroyed and shall properly dispose of the remains. The owner or keeper of the animal destroyed under this Section shall be liable to the Town for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

Subd. 3. Release. If the animal, upon examination, is not found to be diseased, the animal shall be released to the owner or keeper free of charge.

410.11. **Dangerous Dogs.**

Subdivision 1. Attack by a Dog. It shall be unlawful for any person's dog to inflict or attempt to inflict bodily injury to any person or other animal, whether or not the owner is present. This Section shall not apply to an attack by a dog under the control of a law enforcement officer.

Subd. 2. Seizing and Destruction of Dogs. The Town may order the seizing and destruction of dangerous and potentially dangerous dogs in accordance with this Section and Minnesota Statutes, sections 347.50 to 347.565. It is the intent of this Section to be consistent with the requirements in Minnesota Statutes, sections 347.50 to 347.565 concerning potentially dangerous and dangerous dogs and those statutory provisions shall be controlling over any inconsistent or less strict provision contained herein.

Subd. 3. Definitions. For the purpose of this Section, the following definitions shall apply in addition to those contained in Minnesota Statutes, section 347.50.

(a) "Dangerous dog" shall mean any dog that has:

- (1) Without provocation, inflicted substantial bodily harm on a human being on public or private property;

- (2) Killed a domestic animal without provocation while off the owner's property; or
 - (3) Been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks or endangers the safety of humans or domestic animals.
- (b) "Potentially dangerous dog" means any dog that:
 - (1) When unprovoked, inflicts bites on a human or domestic animal on public or private property;
 - (2) When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or
 - (3) Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.
- (c) "Proper enclosure" means securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio or any part of a house, garage or other structure that would allow the animal to exit of its own volition or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance and shall meet the following minimum specifications:
 - (1) Have a minimum overall floor size of 32 square feet;
 - (2) Sidewalls shall have a minimum height of five feet and be constructed of 11 gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be 1¼-inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the side walls shall be buried a minimum of 18 inches in the ground;
 - (3) A cover over the entire enclosure shall be provided. The cover shall be constructed of the same gauge wire or heavier as the side walls and shall also have no openings in the wire greater than two inches; and
 - (4) An entrance/exit gate shall be provided and be constructed of the same material as the side walls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable

of being locked and shall be locked at all times when the animal is in the pen or kennel.

- (d) “Unprovoked” means the condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

Subd. 4. Designation as a Potentially Dangerous Dog. The Town shall designate any dog as a potentially dangerous dog upon receiving evidence that the dog has engaged in any of the acts or behaviors of a potentially dangerous dog as defined herein. When a dog is declared potentially dangerous, the Town shall notify the owner in writing of the potentially dangerous dog designation. The notice shall identify the dog, provide a description of the circumstances that resulted in the designation, and inform the owner of his or her right to request a hearing regarding the designation within 14 days from the date of the notice. If the owner makes a timely request for a hearing, the Town shall call and conduct a hearing as provided in this Section. If the owner does not appeal the designation by requesting a hearing, the Town’s declaration shall stand and the Town may proceed as provided in this Section.

Subd. 5. Effect of Potentially Dangerous Designation. The owner of a dog declared by the Town to be potentially dangerous must have a microchip implanted in the dog for identification, and the name of the microchip manufacturer and identification number of the microchip must be provided to the Town Clerk. If the microchip is not implanted by the owner, it may be implanted by the Town. In either case, all costs related to purchase and implantation of the microchip must be borne by the dog’s owner. The owner shall notify the Town in writing if the dog dies, is transferred to someone else, or is otherwise relocated. The notice shall explain what occurred and shall be provided within 30 days of the occurrence. The designation of the dog as potentially dangerous makes it more likely the dog will be declared dangerous if another incident involving the dog occurs.

Subd. 6. Designation as a Dangerous Dog. The Town shall declare a dog as a dangerous dog upon receiving evidence that the dog has engaged in any of the acts or behaviors of a dangerous dog as defined herein. If a dog is declared dangerous, the Town shall notify the dog’s owner in writing of the dangerous dog designation. The notice must be provided in accordance with the requirements set forth in Minnesota Statutes, section 347.541, subdivision 3. The notice shall inform the owner of his or her right to request a hearing regarding the designation within 14 days from the date of the notice. If the owner makes a timely request for a hearing, the Town shall call and conduct a hearing as provided in this Section. If the owner does not appeal the designation by requesting a hearing, the Town’s declaration shall stand and the Town may proceed as provided in this Section.

Subd. 7. Effect of Dangerous Dog Designation. The following shall apply to a dog designated as dangerous.

- (1) The Town may order the destruction of a dog declared dangerous as provided in this section and Minnesota Statutes, sections 347.50 to 347.565. The destruction order shall be included in the notice of the dangerous dog designation and require the owner to submit the dog to the custody of the

Town if the dog is not already in custody. The destruction of the dog shall not occur until after the period to request a hearing has expired without the Town receiving such a request. The order to destroy the dog must be based on one or more of the following findings of fact:

- (a) The dog inflicted substantial or great bodily harm on a human on public or private property without provocation;
 - (b) The dog inflicted multiple bites on a human on public or private property without provocation;
 - (c) The dog bit multiple human victims on public or private property in the same attack without provocation;
 - (d) The dog bit a human on public or private property without provocation in an attack where more than one dog participated in the attack; or
 - (e) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.
- (2) It shall be unlawful for any person to harbor a dog declared dangerous and ordered into custody for destruction.
 - (3) If the Town does not issue an order to destroy a dog designated dangerous, the owner shall comply with the requirements of Section 410.05, subdivision 4 of this Code and the applicable provisions of Minnesota Statutes, sections 347.50 to 347.565.

Subd. 8. Exemptions. A dog may not be declared dangerous if the threat, injury or damage was sustained by a person:

- (1) Who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;
- (2) Who was provoking, tormenting, abusing or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused or assaulted the dog; or
- (3) Who was committing or attempting to commit a crime.

Subd. 9. Right to Request a Hearing. The owner of any dog declared by the Town to be potentially dangerous or dangerous has the right to a hearing to review the designation. The hearing must be requested by the owner in writing within 14 days of the date of the notice. Upon an owner's timely request for a hearing, the Town shall schedule a hearing to be held within 14 days of the date of the request. The Town shall provide the owner notice of the date, time, place

and purpose of the hearing. The hearing shall be conducted by the Town Board or an impartial hearing officer appointed by the Town Board. The records of law enforcement shall be admissible for consideration by the Town or the hearing officer without further foundation. The owner of the dog shall be given an opportunity to speak and provide evidence as to the animal at the hearing. The written decision of the Town Board or the hearing officer regarding the designation shall be provided to the owner within 10 days from the date of the hearing. The order may require the Town to take the dog into custody, if the dog is not already in custody, for destruction. In the event the potentially dangerous or dangerous designation is upheld, the owner shall be responsible for reimbursing the Town's actual expenses related to the hearing up to a maximum of \$1,000.

Subd. 10. Stopping an Attack. If any law enforcement officer is witness to an attack by a dog upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

Subd. 11. Ownership Restrictions. Ownership of dogs is restricted as provided in Minnesota Statutes, section 347.542.

Subd. 12. Review of Designation. The owner of a dog designated potentially dangerous or dangerous may request the Town review the designation at least six months after the declaration. The request shall be in writing and must include evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior or other factors. Upon such a request, and a sufficient preliminary showing of evidence, the Town Clerk shall provide notice and the Town Board shall conduct a hearing regarding the request. The Town Board shall hear and consider the owner's evidence regarding the dog and issue a written decision on whether it will rescind the designation.

Subd. 13. Dangerous Dog Requirements.

- (a) Requirements. If a dog designated as dangerous is not ordered to be destroyed, the owner shall comply with all of the following:
 - (1) The owner shall keep the dog in a proper enclosure when it is on the owner's property;
 - (2) When the dog is outside of the enclosure, it must be muzzled and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;
 - (3) The owner shall post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children that there is a dangerous animal on the property as specified in Minnesota Statutes, section 347.51, subdivision 2a. If the owner fails to post the

required warning symbols, the Town may post them and the owner shall be required to reimburse the Town for its costs;

- (4) Within 14 days from the notice of the declaration, the owner shall secure and provide proof of having obtained a surety bond issued by a surety company authorized to conduct business in Minnesota in a form acceptable to the Town in the sum of at least \$300,000, payable to any person injured by the dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in Minnesota in an amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the dog;
- (5) The owner shall notify the Town in writing if the dog dies or is transferred to a new location where the dog will reside. The notice shall be provided within 30 days of the death or transfer and, if the dog is transferred, the name, address, and telephone number of the person to whom the dog has been transferred. If the owner moves with the dog, the notice shall include the new address of where the dog will reside;
- (6) The owner shall have the dog sterilized at the owner's expense. If the owner fails to sterilize the dog and provide proof of sterilization to the Town within 30 days, the Town shall seize the dog and have it sterilized at the owner's expense;
- (7) If the owner rents property from another, or the owner rents his or her property to another, where the dog will reside, the owner shall disclose that he or she owns a dangerous dog to the property owner or the renter prior to entering into the lease agreement and at the time of any lease renewal;
- (8) The dog must have an easily identifiable, standardized tag identifying the dog as dangerous and containing the uniform dangerous dog symbol affixed to its collar at all times;
- (9) The owner shall have a microchip implanted in the dog for identification and provide the Town Clerk the name of the microchip manufacturer and identification number of the microchip. If the microchip is not implanted by the owner, the Town may implant it. In either case, all costs related to purchase and implantation of the microchip must be borne by the dog's owner;
- (10) The owner shall register the dog with the county (or with the Town if registration with the county is not available), and pay the required registration fee, within 14 days from the notice of the declaration and shall provide a copy of the certificate of registration to the Town. The registration shall be renewed annual until the dog is deceased; and

- (11) If the owner transfers ownership of the dog he or she shall notify the new owner of the dangerous dog designation and notify the Town of the new owner's name, address, and telephone number.
- (b) Seizure. The Town shall immediately seize any dangerous dog if the owner fails to comply with the requirements imposed on dangerous dogs, or as otherwise provided in Minnesota Statutes, section 347.54. If the owner is convicted in District Court of a crime for failing to comply with the requirements applicable to dangerous dogs, and for which the dog was seized, the District Court may order that the dog be confiscated and destroyed in a proper and humane manner. The District Court may further order the owner to pay the costs incurred in confiscating, confining, and destroying the dog.
- (c) Reclaiming dogs. The owner of a dog seized for failing to comply with the requirements associated with a dangerous dog may reclaim the dog, provided it has not been ordered destroyed, by paying the impounding and boarding fees and presenting proof to the Town that the requirements applicable to dangerous dogs will be met. A dog not reclaimed within seven days may be disposed of in a manner prescribed by law and the owner is liable to the Town for the costs incurred in confining and disposing of the dog.
- (d) Subsequent Offenses. If a dog owner has been convicted of a misdemeanor for violating the requirements imposed on dangerous dogs and the person is charged with a subsequent violation relating to the same dog, the Town shall seize the dog. If the owner is convicted of a subsequent offense, the District Court shall order the dog destroyed. If the owner is not convicted, the dog may be reclaimed, or destroyed if not reclaimed, as provided in this Section.

410.12. **Basic Care**. All animals shall receive from their owners or keepers kind treatment, housing in the winter and sufficient food and water for their comfort. Any person not treating their animal in a humane manner will be subject to the penalties provided in this Code.

410.13. **Breeding Moratorium**. Every female dog or female cat in heat shall be confined in a building or other enclosure in a manner that it cannot come in contact with another dog or cat, except for planned breeding. Upon capture and failure to reclaim the animal, every dog or cat shall be neutered or spayed prior to being transferred to a new owner.

410.14. **Enforcing Officer**. The Town Board may appoint an animal control officer to enforce the provisions of this Section. In the officer's duty of enforcing the provisions of this Section, he or she may from time to time, with the consent of the Town Board, designate assistants.

410.15. **Interference with Officers**. No person shall in any manner molest, hinder or interfere with any person authorized by the Town Board to capture dogs, cats or other animals and convey them to the pound while engaged in that operation; nor shall any unauthorized person break open the pound, 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 the officer in the discharge of his or her duties under this Section.

410.16. **Keeping of Farm Animals.** Farm animals may only be kept on parcels of land that contain at least five acres in size or larger and then only in compliance with all applicable land use regulations. This subsection does not apply to service animals and for those animals brought into the Town as part of an operating zoo, veterinarian clinic, scientific research laboratory, show or exhibition.

Section 415 – Fire and Burning Restrictions

415.01. **Purpose.** The Town Board has made a determination that unregulated burning within the Town has an adverse effect upon the health, comfort, repose and property of the residents of the Town, specifically finding that unregulated burning:

- (a) Can cause there to be an increased risk of destruction or damage to personal property and structures;
- (b) Can cause air pollution which can affect the public's health, primarily those persons suffering from asthma and other respiratory ailments;
- (c) Can create annoyance to adjacent properties by drifting smoke, soot and odor; and
- (d) Can increase the potential for injury by creating a nuisance attractive to children.

Therefore, the Town Board has enacted this Section restricting the ignition and maintenance of fires and other burning as may occur within the Town.

415.02. **Definitions.** The following terms shall have the meaning given them in this Section.

Subdivision 1. "Campfire" means a fire ignited for cooking, warming or ceremonial purposes, which is not more than three feet in diameter and no higher than three feet. The ground five feet from the base of the campfire must be cleared of all combustible materials.

Subd. 2. "Forest products" means and includes all products derived from timber.

Subd. 3. "Owner" includes a person owning the fee title to any real property, or the person occupying real property pursuant to a leasehold interest therein.

Subd. 4. "Open fire" or "Open burning" means a fire which is not contained within a fully enclosed fire box or structure from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct or chimney.

Subd. 5. "Person" means any natural person acting either personally or in any representative capacity of any corporation, firm, partnership or an association of any nature or kind.

Subd. 6. "Snow-covered" means that the ground has a continuous, unbroken cover of snow, to a depth of three inches or more, surrounding the immediate area of the fire sufficient to keep the fire from spreading.

Subd. 7. "Timber" means and includes trees, saplings, bushes, seedlings and sprouts from which trees may grow, of every size, nature, kind and description.

415.03. **Prohibition of Fires.** All fires within the Town are prohibited, except for the following:

- (a) Campfires;
- (b) Fires that are contained in a charcoal grill, camp stove or other device designed for the purpose of cooking or heating;
- (c) Fires contained within a building or structure ignited for the purpose of providing heat to the interior of the structure or to be used in the preparation of food;
- (d) Fires ignited for purposes of fire training, permanent tree and brush open burning sites as therein defined by Minnesota Statutes, section 88.17, subdivision 3 (a), pursuant to special permit granted by the local fire warden or other authorized state, county or local authority;
- (e) Fires started pursuant to a permit to burn vegetative materials and other materials allowed by Minnesota Statutes or official state rules and regulations issued by the State;
- (f) Fires at permanent tree and brush open burning sites that have received a permit to operate from the State pursuant to Minnesota Statutes, section 88.17, subdivision 3 (b);
- (g) Fires ignited for purposes of burning dried leaves between September 15th and December 1st, subject to the following conditions:
 - (1) The burning must occur between the hours of 6:00 p.m. and 8:00 a.m.;
 - (2) The burning must not occur within 30 feet of any building or structure; and
 - (3) The smoke from the fire must not blow toward any dwellings that are within 300 feet of the fire.
- (h) Fire ignited when the ground is snow-covered, subject to the following conditions:
 - (1) The fire may not have a base diameter greater than 15 feet; and
 - (2) Burning must occur between the hours of 3:00 p.m. and 8:00 a.m.

415.04. **Prohibited Materials.** Burning of any of the following materials shall be strictly prohibited under any circumstances:

- (a) Motor oil, rubber, plastics, chemically treated materials or other materials which produce excessive or noxious smoke including, but not limited to, tires, railroad ties, chemically treated lumber, composite shingles, tarp paper, insulation, composition board, sheetrock, wiring, paint or paint filters;
- (b) Hazardous waste as defined in Minnesota Statutes, section 116.06, subdivision 11;
- (c) Solid waste generated from an industrial or manufacturing process or from a service or commercial structure;
- (d) Building and salvage materials generated from the demolition of a commercial, industrial or institutional structure. For purposes of this prohibition, a farm building is not considered to be a commercial, industrial or institutional structure;
- (e) Motor vehicles and motor vehicle materials and parts; and
- (f) Discarded materials resulting from the handling, processing, storage, preparation, serving, or consumption of food, unless specifically allowed by Minnesota Statutes, section 17.135.

415.05. **Prohibition of All Burning.** No burning may occur during any time when a burning ban is declared by any state, county or local authority due to an air pollution alert or a fire danger.

415.06. **General Regulations Regarding Permitted Fires.** Subdivision 1. No person shall:

- (a) Ignite or maintain a fire upon the land of another without the permission of the owner or the owner's agent; or
- (b) Ignite or maintain a fire on publicly owned or controlled property except with the permission of the public entity or in areas designated by the public entity for the maintenance of campfires.

Subd. 2. Any authorized fire must be attended by a competent person who is at least 18 years of age. The fire must be attended until it is completely extinguished.

415.07. **Criminal Prosecution.** Violations of any of the provisions of this Section shall be deemed a petty misdemeanor, except the violation of Section 415.04, paragraphs (a), (b) or (c), shall be deemed to be a misdemeanor. Any person who ignites or maintains a prohibited fire may be held responsible. Any person who owns or controls property and knowingly permits a prohibited fire to be ignited or maintained on his or her property shall also be responsible as if that person had actually ignited the fire.

415.08. **Service Charges.** In addition to the criminal prosecution, any person who violates any provision of this Section shall be responsible for any costs or expenses incurred by any public

fire department or the Town related to services rendered in response to fires that were set in violation of this Section. The Town may certify these costs against the real property at which the violation occurred if the costs and expenses are not paid within 30 days of invoice by the Town.

Section 420 – Premises Conducive to High-Risk Sexual Conduct

420.01. **Findings and Purpose.** The Town Board makes the following findings regarding the need to regulate commercial premises, buildings and structures that are conducive to the spread of communicable disease of danger to persons in order to further the substantial interest of public health:

- (a) The experience of other political subdivisions demonstrates that certain commercial premises, buildings, and structures, or parts thereof, by reason of the design and use of such premises, buildings or structures are conducive to the spread of communicable disease of danger to persons frequenting such premises, buildings or structures, as well as to the general public, and that the risk of spreading infectious and contagious diseases can be minimized by regulating such commercial premises, buildings, and structures.
- (b) The experience of other political subdivisions where such commercial premises, buildings and structures are present indicates that the risk of spreading the sexually transmittable disease of Acquired Immune Deficiency Syndrome (“AIDS”) is increased by the presence of such premises, buildings, and structures, because the design or use of such premises, buildings and structures, or parts thereof can facilitate highrisk sexual conduct.
- (c) Medical publications of the Center for Disease Control of the United States Department of Health and Human Services indicate the lasting effects of sexually transmittable diseases such as AIDS. Medical research has further established that the risk factors for obtaining or spreading AIDS and other diseases are associated with high-risk sexual conduct.
- (d) Certain commercial premises, buildings and structures, or parts thereof, by reason of their design and use, are conducive to high-risk sexual conduct and hence the spread of communicable disease, and that the risk of spreading infectious and contagious diseases can be minimized by regulating these commercial premises, buildings, and structures.
- (e) The public health, safety, morals, and general welfare will be promoted by the Town adopting regulations governing commercial premises, buildings, and structures conducive to high-risk sexual conduct.
- (f) The purpose of these regulations is to prescribe regulations governing commercial premises, buildings and structures that are conducive, by virtue of design and use, to highrisk sexual conduct which can result in the spread of sexually transmitted diseases to persons frequenting such premises, buildings, and structures.

420.02. **Definitions.** For purposes of this Section, the following terms have the meanings given them:

Subdivision. 1. “Booths, stalls, or partitioned portions of a room or individual room” means: (i) enclosures specifically offered to persons for a fee or as an incident to performing highrisk sexual conduct; or (ii) enclosures which are part of a business operated on the premises which offers movies or other entertainment to be viewed within the enclosure, including enclosures wherein movies or other entertainment is dispensed for a fee, but does not include enclosures that 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.

Subd. 2. “Doors, curtains or portal partitions” means full, complete, non-transparent closure devices through which one cannot see or view activity taking place within the enclosure.

Subd. 3. “Hazardous site” means any commercial premises, building or structure, or any part thereof, which is a site of highrisk sexual conduct as defined herein.

Subd. 4. “High-risk sexual conduct” means: (i) fellatio; (ii) anal intercourse; or (iii) vaginal intercourse with persons who engage in sexual acts in exchange for money.

Subd. 5. “Open to an adjacent public room so that the area inside is visible to persons in the adjacent public room” means either the absence of any entire “door, curtain or portal partition” or a door or other device which is made of clear, transparent material such as glass, Plexiglas 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.

Subd. 6. “Public health official” means an agent or employee of the Town, or an agent or employee of the county or state charged with the enforcement of the state or local health laws.

420.03. **Public Health Regulations.** Subdivision 1. A commercial building, structure, premises or part thereof, or facilities therein may not be constructed, used, designed, or operated in the Town for the purpose of engaging in, or permitting persons to engage in, sexual activities which include highrisk sexual conduct.

Subd. 2. It is unlawful to own, operate, manage, rent, lease or exercise control of a commercial building, structure, premises or portion or part thereof in the Town, that contains:

- (a) Partitions between subdivisions of a room, portion, or part of a building, structure, or premises having an aperture which is designed or constructed to facilitate sexual activity including, but not limited to, vaginal intercourse, anal intercourse, or fellatio, between persons on either side of the partition; or

- (b) Booths, stalls, or partitioned portions of a room or individual room as defined herein which have doors, curtains, or portal partitions as defined herein unless the booths, stalls, or partitioned portions of a room or individual room 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 as defined herein. Booths, stalls, or partitioned portions of a room or individual room that are so open to an adjacent public room must be lighted in a manner that the persons in the area used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting need not be of such intensity as to prevent the viewing of the motion pictures or other offered entertainment.

420.04. **Exceptions.** The regulations set forth in this Section do not apply to premises, buildings, or structures that are lawfully operating and licensed as hotels, motels, apartment complexes, condominiums, townhomes, or boarding houses which are subject to other general health and sanitation requirements under state and local law.

420.05. **Health Enforcement Powers.** Subdivision 1. In exercising powers conferred by this or any other Section of this Code relating to communicable diseases, the public health official is to be guided by the most recent instructions, opinions and guidelines of the Center for Disease Control of the United States Department of Health and Human Services that relate to the spread of infectious diseases.

Subd. 2. In order to ascertain the source of infection and reduce its spread, the public health official and persons under the public health official's direction and control, may inspect or cause to be inspected, and to issue orders regarding any commercial building, structure or premises, or any part thereof, that may be a site of highrisk sexual conduct. If the public health official determines that a hazardous site as defined herein exists, the public health official will declare it to be a public health hazard and public health nuisance and will:

- (a) Notify the manager, owner or tenant of the hazardous site that the public health official has reasonable belief that the premises, building, or structure is a hazardous site as defined herein;
- (b) Issue two written warnings at least 10 days apart to the manager, owner, or tenant of the premises stating the specific reasons for the public health official's opinion that the premises, building, or structure is a hazardous site as defined herein;
- (c) Once such notices and warnings have been issued, the public health official must proceed as follows:
 - (1) After the manager, owner or tenant of the premises has been notified in writing as to the basis of the public health official's determination, the manager, owner or tenant will have 10 days from the date of the last warning to request a hearing before the public health official or the public health official's appointee for the determination as to the existence of such hazardous site. If the manager, owner or tenant of the premises does not

request a hearing within 10 days of the date of the last warning notice, the public health official will then cause the premises to be posted with a warning advising the public that the premises have been declared a hazardous site and the public health official will cause orders to be issued to the manager, owner or tenant of the premises constituting the hazardous site to take specified corrective measures to prevent highrisk sexual conduct from taking place within the premises.

- (2) If the manager, owner, or tenant of the premises requests a hearing, the hearing will be held before the public health official or the public health official's appointee at a date not more than 30 days after demand for a hearing. After considering all evidence, the public health official or the public health official's appointee will make a determination as to whether the premises constitute a hazardous site, as defined herein and issue a decision based upon all hearing evidence presented. If the public health official or the public health official's appointee makes a determination that the premises constitute a hazardous site, the public health official will then issue orders to the manager, owner or tenant of the premises to take corrective measures to prevent highrisk sexual conduct from taking place within the premises and cause the premises to be posted with a warning advising the public that the premises have been declared a hazardous site.
- (3) If, within 30 days after issuance of the orders to the manager, owner or tenant of the hazardous site, the public health official determines that such corrective measures have not been undertaken, the public health official: may order the abatement of the hazardous site as a public nuisance, which may be enforced by mandatory or prohibitory injunction in a court of competent jurisdiction; or, may secure a court order for the closure of the premises constituting the hazardous site until the premises, building or structure is in compliance with all provisions of this Code.

420.06. **Criminal Penalties.** A person violating any provision of this Section or any person who removes, destroys, or defaces warnings posted on premises by the public health official pursuant to section shall be guilty of a misdemeanor.

Section 425 – Solid Waste

425.01. **Definitions.** For purposes of this Section, the following terms have the meanings given them:

Subdivision 1. “Collectors” means all persons who are in the business of picking up and transferring to an appropriate disposal facility any solid waste or recyclable materials and which has a license to engage in such business issued by the County and all other appropriate authorities.

Subd. 2. “Person” means any human being, municipality or other governmental entity, any partnership, firm, association, corporation, or any legal representative of the foregoing.

Subd. 3. “Recyclable materials” means materials that are separated from mixed municipal solid waste for the purpose of recycling, including paper, glass, plastics, metals, automobile oil, and batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material.

Subd. 5. “Solid waste” means garbage, refuse, sludge from a water supply treatment plant or air containment treatment facility and other discarded waste materials and sludges, in solid, semisolid, liquid or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations and from community activities, but does not include hazardous waste, animal waste used as fertilizer, earthen fill, boulders, rock, sewage sludge, solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to control permits under the Clean Water Act, dissolved materials in irrigation return flows, or source, special nuclear or by-product material as defined by the Atomic Energy Act.

425.02. **Mandatory Collection.** All households and businesses are hereby required to contract for the collection of solid waste or ensure that a sound environmental alternative is used for the disposal of solid waste. For purposes of this Section, “contracting for services” means hiring collectors to collect and dispose of the solid waste.

425.03. **Volume Based Fees.** Collectors of solid waste from residences and businesses must charge for collection on the basis of volume or weight of solid waste collected so that the fee charged increases as the volume or weight of the solid waste collected from the residence or place of business increases.

425.04. **Recyclables Collection.**

Subdivision 1. All collectors providing service to residential and commercial customers must provide for the collection of at least three types of recyclable materials from each customer at least once per month.

Subd. 2. All collectors must submit an annual report to the Town, on or before January 31st of each calendar year for the previous calendar year, identifying the weight in tons of all recyclable

materials and all other solid waste collected from the Town customers. The report must identify each type of recyclable materials collected.

425.05. **Anti-Scavenging.** Ownership of recyclable materials set out for collection shall be vested in the collectors of the recyclable materials. It shall be unlawful for any person to take recyclable materials from collection bins on property not owned or controlled by him or her for his or her own use.

425.06. **Variances.** The Town may exempt a residential household or business in the Town from the requirement to have a solid waste collection service if the household or business ensures that an environmentally sound alternative is used to provided that written documentation is provided to the Town. To promote the effective and reasonable application of this Section, the Town may grant a variance only for good cause shown.

CHAPTERS V & VI
ZONING AND SUBDIVISION REGULATIONS

[Chapters V and VI are posted separately and are incorporated herein by reference.]

CHAPTER VII BUILDING, HOUSING AND CONSTRUCTION REGULATIONS

Section 700 – Building Code

700.01. **Building Code.** Subdivision 1. Building Code Adopted. The Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes, sections 326B.101 to 326B.16, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Unit, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this Section. The Minnesota State Building Code is hereby incorporated into this Section as if fully set out herein.

Subd. 2. Building Code Optional Chapters. The Minnesota State Building Code, established pursuant to Minnesota Statutes, section 326B.101 to 326B.194 allows the Town to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code. The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the building code for the Town:

None.

Subd. 3. Administration and enforcement. The application, administration and enforcement of the building code shall be in accordance with Minnesota Rules, chapter 1300. The Town building official designated by the Town Board will be responsible for the administration and enforcement of the building code within the Town. The designated Town building official must be certified by the State of Minnesota pursuant to Minnesota Statutes, section 326B.133, subdivision 2. The building official will be responsible for all aspects of code administration.

700.02. **Permits and Fees.** The issuance of permits and the collection of fees shall be as authorized Minnesota Statutes, section 326B.153. Permit fees shall be assessed for work governed by this Code in accordance with the fee schedule adopted by the Town Board. In addition, a surcharge fee shall be collected on all permits issued for work governed by this Code in accordance with Minnesota Statutes, section 326B.148.

Section 705 – Private Swimming Pools, Spas and Hot Tubs

705.01. **Definitions and Regulations.** Subdivision 1. For purposes of this Section, the terms defined in this subsection have the meanings given them as follows:

- (a) “Swimming pool, spa or hot tub” means any pool or open tank not located within a completely enclosed building and with a surface area of 50 square feet or more that holds more than 100 gallons of water, excluding natural bodies of water.

Subd. 2. **Requirements for Swimming Pools, Spas and Hot Tubs.** The following conditions and requirements must be followed for swimming pools, spas and hot tubs:

- (a) Swimming pools, spas and hot tubs must meet the structure setbacks listed for the zoning district in which they are located. In no case may a swimming pool, hot tub or spa be located closer than 10 feet to any property line.
- (b) All swimming pools, spas and hot tubs must be equipped with safeguards to prevent children from gaining uncontrolled access by the use of a fence or enclosure, or any combination thereof, of sufficient density as to be impenetrable. If a fence is used, it must be at least six feet in height. The bottoms of the fence must not be more than four inches from the ground. Fences must be of a non-corrosive material and must be constructed so as to be not easily climbable. All fence openings or points of entry into the pool, spa or hot tub enclosure must be equipped with gates or doors. All gates or doors to swimming pools, spas and hot tubs must be equipped with selfclosing and selflatching devices placed at sufficient height so as to be inaccessible to small children.
- (c) Rented portable spas and hot tubs are exempt from (a) and (b) of this Section for a period not to exceed 48 hours, provided they are secured when not in use.

Section 710 – Soil Erosion and Sediment Control

710.01. **Soil Erosion and Sediment Control.** Subdivision 1. General Rule. The following standards apply to all development and activity that necessitates grading, stripping, cutting, filling or exposure of soils.

Subd. 2. General Standards.

- (a) Development must conform to the natural limitations presented by the topography and soil in order to create the best potential for preventing soil erosion.
- (b) Development on slopes with a grade between 12 and 18 percent must be reviewed by the Town to ensure that adequate measures have been taken to prevent erosion, sedimentation and structural damage.
- (c) Erosion and siltation control measures must be coordinated with the different stages of development. Appropriate control measures must be installed prior to development when necessary to control erosion.
- (d) Land must be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land must be exposed at any one period of time.
- (e) Where the topsoil is removed, sufficient arable soil must be set aside for re-spreading over the developed area. The topsoil shall be restored to a depth of four inches and shall be of a quality at least equal to the soil quality prior to development.
- (f) The natural drainage system must be used as far as is feasible for storage and flow of runoff. Storm water drainage must be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of storm water to marshlands or swamps may be considered for existing or planned surface drainage. Marshlands and swamps used for stormwater must provide for natural or artificial water level control. If constructed, temporary storage areas or retention basins scattered throughout developed areas must be constructed to reduce peak flow, erosion damage and construction cost.
- (g) Public and private properties adjacent to the development site must be protected from the effects of sedimentation. Any violations of this provision must be corrected by the owner to the satisfaction of the Town within five days of receiving notification of such. If the violation is not remedied within the time period specified, the Town may correct the problem and assess the costs incurred to the property owner.

Subd. 3. Exposed Slopes. The following control measures must be taken to control erosion during construction:

- (a) An exposed slope may not be steeper in grade than four feet horizontal to one foot vertical.
- (b) At the foot of each exposed slopes, a channel and berm should be constructed to control runoff. The channeled water should be diverted to a sedimentation basin (debris basin, silt basin or silt trap) before being allowed to enter the natural drainage system.
- (c) Along the top of each exposed slope, a berm should be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind said berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures must be taken to prevent erosion. Such measures consist of either an asphalt paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron a gravel energy dissipater should be installed to prevent erosion at the discharge end.
- (d) Exposed slopes must be protected by whatever means will effectively prevent erosion considering the degree of slope, soils material and expected length off exposure. Slope protections must consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seedlings of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark or other protective material. Mulch should be anchored to slopes with liquid asphalt, stakes and netting, or should be worked into the soil to provide additional slope stability.
- (e) Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will as effectively protect exposed slopes.

Subd. 4. Ground Cover. A residential property must be maintained in a condition to control erosion, dust and mud by installing suitable landscaping that includes grass, trees, shrubs or other planted ground cover or by paving with asphalt or concrete.

710.02. **Preservation of Natural Drainageways.**

Subdivision 1. Waterways.

- (a) Every effort must be made to retain the natural drainage systems in the Town including existing wetlands and ponds. Above-ground runoff disposal waterways may be constructed to augment the natural drainage system.
- (b) The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a 10 year storm. Adequacy is determined by the expected runoff when full development of the drainage area is reached.

- (c) Fences or structures may not be constructed across the waterway that will reduce or restrict the flow of water.
- (d) The banks of the waterway must be protected with permanent vegetation or rip-rap and should not exceed four feet horizontal to one foot vertical in gradient.
- (e) The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
- (f) The bed of the waterway should be protected with turf, sod or concrete. If turf or sod will not function properly, rip-rap may be used. Rip-rap shall consist of quarried limestone, fieldstone (if random rip-rap is used) or construction materials of concrete. The rip-rap shall be no smaller than two inches square or no larger than two feet square. Construction materials must be used only in those areas where the waterway is not used as part of recreation trail system.
- (g) If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and said velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Either gravel or rip-rap will be allowed to prevent erosion at these points.

Subd. 2. Sediment Control of Waterways

- (a) To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures must be incorporated throughout the contributing watershed.
- (b) Temporary pervious sediment traps may consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. Such structures will serve as temporary sediment control features during the construction state of development. Development of housing and other structures are restricted from the area on either side of the waterway required to channel a 25 year storm.
- (c) Permanent impervious sediment control structures consist of sediment basins (debris basins, desilting basins or silt traps) and must be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

The above constitutes the most current version of the Le Sauk Township Code as amended through December 10, 2024.

Dan Heim, Chairperson

Attest: _____
Marlyce Plante, Clerk