

ELLINGTON TOWNSHIP ZONING ORDINANCE

The Town Board of Ellington Township hereby ordains this Ordinance for the purpose of promoting the health, safety, order, convenience and general welfare in Ellington Township by regulating the use of land and buildings for trade, commerce, industry, residence and other purposes, by defining certain terms used herein, and by providing for the administration, enforcement, and the imposing of penalties for the violation of this Ordinance.

ARTICLE I. GENERAL PROVISIONS

- A. **Title.** This Ordinance shall be known as the Ellington Township Zoning Ordinance.
- B. **Authority.** Ellington Township is empowered to enact, administer, enforce, and amend these zoning regulations through powers granted to townships by Minnesota Statutes, Section 462.351 - 462.364.
- C. **Application.**
1. In interpreting and applying the provisions of this Ordinance, they should be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare.
 2. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, Ordinance, statute, resolution or regulation, the regulations which are most restrictive shall apply.
- D. **Jurisdiction.** The jurisdiction of this Ordinance shall apply to all areas within Ellington Township, except shore-land areas which are regulated by the county shore-land and flood plain ordinance(s). These are currently defined as lands three hundred (300) feet landward from the ordinary high water level of all protected watercourses and one thousand (1000) feet landward from the ordinary high water level of all protected water basins as identified on the Protected Waters and Wetland Map listed in the Dodge County Ordinance.
- E. **Scope.** From and after the effective date of this Ordinance, no structure may be erected, constructed, enlarged, reconstructed or altered and no structure or land may be used or occupied for any purpose or in any manner that is not in conformity with this Ordinance.
- F. **Nonconforming Uses and Structures.** Any use or structure in existence prior to the date of enactment of this Ordinance which does not conform with the use restrictions of this Ordinance is a nonconforming use or structure. With the exception of restrictions on nonconforming uses as stated elsewhere in this Ordinance, all lawful uses existing at the

time of adoption of this Ordinance shall be permitted to continue.

1. The expansion or enlargement of a nonconforming use or structure shall be in compliance with the requirements of this Ordinance. A nonconforming use or structure may be altered provided such alterations do not intensify or physically expand or extend the nonconforming use. The above apply except as modified or altered in Article IV B 9.
2. If a nonconforming use ceases to be used for a period of twelve (12) months, or is changed to conforming use, or is destroyed by any means to an extent of fifty (50) percent or more of its replacement cost at the time of destruction, any subsequent use, reconstruction, or occupancy shall be in conformity with the provisions of this Ordinance. The above apply except as modified or altered in Article IV C 5.
3. The burden of establishing that a nonconforming use or structure lawfully exists under this Zoning Ordinance shall, in all cases, be the owner's burden and not the Township's.

ARTICLE II. INTERPRETATIONS AND DEFINITIONS

A. INTERPRETATIONS. For purposes of this Ordinance, certain words or terms used herein shall be interpreted as follows:

1. The word "person" includes firm, association, cooperative, partnership, organization, company, or corporation as well as individual.
2. The present tense includes the future tense, the singular number includes the plural, and the plural includes the singular.
3. The word "shall" is mandatory, the word "may" is permissive.
4. The word "lot" shall include the word "plot", "piece", and "parcel".
5. All distances, unless otherwise specified, shall be measured horizontally.

B. DEFINITIONS. For the purpose of this Ordinance, certain terms and words are defined as follows:

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

Aerobic Composting: The decomposition by microbial activity of raw materials like manure, straw, bedding materials, corn stalks, crop residues, yard wastes, etc. with a ratio of Carbon to Nitrogen high enough to stabilize valuable and volatile nutrients in the manure and to make humus.

Agricultural Use : The use of land for the growing or production of field crops or other cash crops, orchards, the raising of livestock, and the production of livestock products for the production of income. For purposes of this definition, the following terms are defined as:

- a. **Field crops** shall include but not be limited to corn, soybeans, hay, oats, rye, wheat, fruit, vegetables, or other products suitable for human or animal consumption.
- b. **Livestock** shall include but not be limited to dairy and beef-cattle, hogs, poultry, horses, sheep, game birds, or other animals as determined by the Town Board Supervisors.

Livestock Products shall include but not be limited to milk, cheese, butter, eggs, meat, leather, fur and honey.

Animal feedlot or "Feedlot": An enclosure or building or combination of enclosures and buildings and accessory buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area where manure may accumulate or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure during the months of May, June, July and August. Open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots.

Animal Unit means a unit of measure used to compare differences in the production of animal manures that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer. For purposes of this Ordinance the following equivalents shall apply to calculations of the number of animals which may be referred to in this Ordinance in terms of a number of animal units:

Animal	AU per Animal	250 AU Equals	450 AU Equals
one mature dairy cow	1.4	179 animals	321 animals
one slaughter steer or heifer	1.0	250 "	450 "
one horse	1.0	250 "	450 "
one swine over 55 pounds	.4	625 "	1125 "
one duck	.2	1250 "	2250 "
one sheep	.1	2500 "	4500 "
one swine under 55 pounds	.05	5000 "	9000 "

one turkey	.018	13889 "	25000 "
one chicken	.01	25000 "	45000 "

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

The total number of animal units subject to setback or permit shall be determined by including any operation(s) under common ownership or management, located within one half mile of each other and/or which utilize a common area and/or facility, building, lagoon, pit, waste basin, or silo for manure storage.

Commercial Use: The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services of a wholesale or retail nature such as a grocery store, office building other than a home office, resort, nightclub, etc.. It does not include home occupations or the sale of farm products by the farmer who produced them.

Conditional Use Permit: A permit specially and individually granted for a conditional use permitted in the Township. A Conditional Use Permit for Feedlots and a Conditional Use Permit for Mining shall be considered Conditional Use Permits.

Cumulative Total: The total number of animal units calculated by totaling all animals of any size or species on the site.

Essential Services: Underground or overhead gas, electrical, steam or water transmission or distribution systems; collection, communication, supply or disposal systems including poles, wires, mains, drains, sewers, pipes, conduits, cables, hydrants or other similar equipment and accessories in conjunction therewith, but not including buildings or structures as defined herein.

Existing Farm Building Sites or Residential Sites: A site that has maintained its character as a home-site due to features such as driveway, power-poles, outbuildings, house, grove, yard, and/or well.

Four corners of a feedlot perimeter: The four corners of a rectangle laid out on North-South axis that establishes the perimeter of the feedlot, within which is included the outermost wall of any confinement building, the outermost edge of any manure storage structure, and the outermost fence line of any open confinement lot.

Hazardous Waste Materials: Hazardous waste, hazardous Substance, toxic substances, polychlorinated biphenyls, asbestos or related materials and also includes, but is not limited to substances defined as "hazardous substances" or "toxic substances" in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sec. 9061, et seq.,

Hazardous Materials Transportation Act, 49 U.S.C. Sec. 6901, et seq., or as “hazardous substance,” “Hazardous waste” or “pollutant or contaminant” in the Environmental Response and Liability Act, Minn. Stat. Sec. 1158.01, et seq.

Home Occupation: Any gainful occupation, profession or craft which is customarily incidental to or carried on at a residential dwelling site or farm homestead solely by members of the household residing on the premises. There shall be no more than two (2) non-household employees engaged in home occupation use of a residence.

Industrial Use: Except for the incidental processing of field crops, livestock and livestock products into agricultural products by the farmer who grew the crop or raised the livestock on the land as a continuation of the farming operation on the land, the manufacturing, compounding, processing, production, packaging, cleaning, servicing, testing, repair or storage (but not including storage by a retail use) of goods or produce for sale, lease, rental or trade. Animal feedlots of over 499 animal units shall be considered an industrial use.

High Level Radioactive Waste: means radioactive waste such as nuclear waste, transuranic waste, spent nuclear fuel, or by-product material as defined in section 11e.(2) of the atomic energy act of 1954.

Infectious Waste: means laboratory waste, blood, regulated body fluids, sharps, and research animal waste, and other waste defined in Minn.R.7035.9110.

Junkyard or Salvage Yard: An establishment or business that maintains or operates a vehicle or equipment graveyard and that purchases and sells used vehicles, old farm machinery, junk, etc. for parts and salvage.

Lot: A parcel of land designated by metes and bounds, registered land survey, auditor's plat, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease or separation thereof.

Low Level Radioactive Waste: Radioactive waste not classified as high level radioactive waste.

Manure Pack: See Waste or Manure Pack.

Manure Storage Area or Facility: An area or facility such as a manure pit under a barn, silo, a lagoon or earthen waste basin, associated with an animal feedlot where animal manure or runoff containing animal manure is stored until it can be utilized as domestic fertilizer or removed to a permitted animal manure disposal site. Animal manure packs or mounding within the animal feedlot shall not be considered to be manure storage.

Manufacturing Uses: Establishments engaged in any transformation (mechanical,

chemical, etc.) of materials or substances into new products, or the assembling of component parts, or the manufacturing of products and the blending of materials for sale, lease, or retail

Mobile (Manufactured) Homes: A single family dwelling designed to be moved, built on a frame or chassis and further, specifically designed and constructed so that the wheels are, or may be, attached for transportation on public streets or highways and designed without the need for permanent foundation arriving at the site complete and ready for residential occupancy except for minor and incidental unpacking and excluding basement or cellar, connections to utilities, etc.

Mobile Home Park: Any site, lot, field or tract of land upon which three or more occupied mobile homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicles or enclosure used or intended for use as part of the equipment of such mobile home parks. The lot must be occupied by a majority of residents who do not own the lot and are not related to the owner of the park.

Multiple Dwelling: A residence designed for or occupied by three or more families with separate housekeeping and cooking facilities for each.

New Animal Feedlot: An animal feedlot constructed and operated at a site where no animal feedlot existed previously or where a preexisting animal feedlot has been abandoned or unused for a period of one (1) year or more.

Nonconforming Structure: A building or structure, or portion thereof, that does not comply with the applicable property development standards or other dimensional standards, but which complied with all applicable property development standards and dimensional standards in effect at the time the building or structure was established.

Nonconforming Use: The use of any land, building or structure that does not comply with the use regulations in which such use is located, but which complied with the use regulations in effect at the time the use was established.

Other Animal Sites: An enclosure(s) or building(s) or lot(s) where animals are raised for the purpose of breeding, sale, or boarding for a fee, whose numbers are not normally referred to in terms of animal units.

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

Property Owner. Person or persons, partnership, association, limited liability company, corporation, or non-profit corporation holding legal title to the land.

Residence: A building or other shelter in which people live or have lived for more than 20 days within the last 24 months.

Set Back: The required minimum horizontal distance between a structure, and other elements as provided by this Ordinance, and a road, street or highway right-of-way lot line, or other reference point as provided by this Ordinance.

Sustainable Agriculture: A form or model of agriculture organization at the farm and community level that favors a diversity of livestock and/or cropping systems that rely on the existing natural resource base of soil, water, and biological systems of the subject area, and intended to provide a stable economic base for the local community.

Sustainable Community: A community that uses its resources to meet current needs while ensuring that adequate resources are available for future generations. A sustainable community seeks a better quality of life for all its residents while maintaining nature's ability to function over time by minimizing waste, preventing pollution, promoting efficiency and developing local resources to revitalize the local economy. Decision-making in a sustainable community stems from a rich civic life and shared information among community members. A sustainable community resembles a living system in which human, natural and economic elements are interdependent and draw strength from each other.

Sustainable Development: Development that maintains or enhances economic opportunity and community well-being while protecting and restoring the natural environment upon which people and economies depend. Sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs.

Tire Recycling Facility: A facility where used and discarded tires are bought, dumped, exchanged, stored, and/or recycled for commercial purposes.

Town Board: The Ellington Township Board of Supervisors.

Town Road: A township public road with a public easement which affords a primary means of access to abutting property.

True North Azimuths: Four True North Azimuths, one from each of the four corners of a feedlot perimeter, are defined and established as follows:

- a. From the Northeast corner, an Azimuth of 100 degrees is established.
- b. From the Southeast corner, an Azimuth of 35 degrees is established.
- c. From the Southwest corner, an Azimuth of 325 degrees is established.

d. From the Northwest corner, an Azimuth of 190 degrees is established.

Undue Hardship: The term “undue hardship” as used in connection with the granting of a variance means that the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property and not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic consideration alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the of this Ordinance.

Use: Any purpose for which a building, structure, or tract of land may be designed, arranged, intended, maintained, or occupied.

Use, Principal: The main or primary purpose for which a building, other structure, and/or lot is designed, arranged, or intended, or for which they may be used, occupied or maintained under this Ordinance. The use of any other building, other structure and/or land on the same lot and incidental or supplementary thereto and permitted under this Ordinance shall be considered an accessory use.

Valid Complaint: A statement claiming violations of provisions of this Ordinance or terms of a conditional use permit which the Town Board, after conducting a public hearing on the complaint, finds to be accurate, true, and worthy of correction.

Vehicle: Any auto, truck, or equipment which is or has been licensed for use on a public road.

Waste or Manure Pack: Any piling, dumping, or stacking of manure or waste materials (e.g. city sludge) outside the four corners of a feedlot perimeter.

ARTICLE III.

Agricultural District, General Setbacks, Lot Size

- A. **Agricultural/Residential District.** All lands lying within Ellington Township are hereby zoned as and determined to be in an agricultural/residential district. Land use within 1,000 feet of shoreline areas shall be regulated by the county and comply with the Dodge County Shoreline Management Ordinance. Activities located in the 100 year Flood Plain area shall comply with this Ordinance and the Dodge County Flood Plain Ordinance.

Purpose: The purpose of the Agricultural District is to preserve and promote use of land for agricultural uses and farm residences (especially those uses which promote a sustainable agricultural base for the Township), rural residential use, and only those other

uses which are compatible with and complementary to such agricultural and residential uses and to an agricultural community that also provides complementary limited rural residential opportunities.

Note: Whenever a use is neither specifically permitted (including those specifically designated as conditional uses) nor prohibited, the use shall be considered prohibited.

1. **Permitted Uses:** Agricultural uses, except that animal feedlots exceeding 499 animal units are not a permitted use, single family residential, two family residential, town hall, parks, playgrounds, home occupations and cemeteries except as otherwise provided in this Ordinance.
 2. **Conditional Uses** requiring a conditional use permit include all industrial and commercial uses, including but not limited to, animal feedlots that exceed 499 animal units; storage and disposal of waste materials; gravel or mining pits; essential service construction projects; and places of worship.
 3. **Prohibited Uses:** Including but not limited to the following: High Level Radioactive waste storage or disposal, low level radioactive waste storage or disposal, infectious waste storage or disposal, land fills, animal feedlots over 1600 animal units, lagoons, multiple dwellings, mobile home parks, junkyards, salvage yards, and tire recycling facilities.
- B. Building or Structure Setback Provisions.** Unless otherwise specified in this Ordinance;
1. The minimum setback distance between a building (including manufactured home) and the property line shall be twenty (25) feet.
 2. The minimum setback distance between a building or structure (including haystacks and above ground feed storage) and the centerline of a public road shall be 100 feet.
- C. Minimum Lot Size.** The minimum lot size for any residential lot shall be no less than 200 feet in width and 3 acres in area, exclusive of road right-of-way. The minimum lot size for any commercial or industrial use shall be no less than 300 feet in width and 5 acres in area.

ARTICLE IV. ANIMAL FEEDLOTS

The purpose of the following provisions is to control the land use issues associated with feedlots such as, but not limited to, protecting property values, protecting roads, assuring public safety, reducing and limiting the effects of the odor from the feedlot on other surrounding uses, flies, and controlling nuisances. These provisions will also inform the township residence about feedlot

development in the township and provide a local forum to address resident concerns. The purpose is not to control the water quality of Ellington Township which is regulated by the state.

A. Notification to Township Of Proposed Feedlot. The Township shall be notified by letter within ten days by the applicant of any applications to federal, state or county agencies for feedlot permits for the construction or expansion of any animal feedlots. A copy of the applications to other agencies shall be included with the letter.

B. Animal Feedlot Setback Any new feedlot with a cumulative total of more than 499 animal units, or an expansion of an existing feedlot that results in the feedlot having a cumulative total of more than 499 animal units, or any new manure storage facility designed or expanded to hold animal waste from a cumulative total of more than 499 animal units shall meet the following setback requirements:

1. Shall not be situated closer than 200 feet from an adjoining property line.

2. Shall be setback from a residence other than operator's residence a minimum of 3 feet per animal unit if the feedlot is located between either

a. True North Azimuth 35 degrees and True North Azimuth 100 degrees or

b. True North Azimuth 190 degrees and True North Azimuth 325 degrees.

or a minimum of 3 feet per animal unit with additional setbacks considered for existing residences if the feedlot is located between either

c. True North Azimuth 325 degrees and True North Azimuth 35 degrees or

d. True North Azimuth 100 degrees and True North Azimuth 190 degrees.

3. No new feedlot greater than 50 animal units shall be situated less than one fourth mile from a neighboring residence.

4. No feedlot shall exceed 1600 animal units.

5. No new feedlot buildings or manure storage area shall be constructed within 200 feet from the centerline of a township road.

6. In a Hoop Barn Feedlot where each days manure is daily mixed with adequate composting materials for it to begin aerobic composting the minimum setback will always be ¼ mile, any additional setback required by this Ordinance will be decreased by ¼ mile, but not less than ¼ mile

7. shall be a minimum of one-half (1/2) mile from every other animal feedlot including feedlot in any Township adjacent to Ellington.
8. The setbacks for any new residence from an existing feedlot shall be the same as the required setback of a new feedlot from a residence.
9. Any animal feedlot which did not have an Ellington Township Conditional Use Permit as of September 12, 1996, can expand up to the cumulative total of 499 animal units without being subject to the setback provisions of this Ordinance. Expansion at these feedlots shall be in the direction away from neighboring residences.

C. Conditional-Use Permit For Feedlots:

1. **Permitted Operations:** A Conditional Use Permit for a Feedlot is required for an animal feedlot with a cumulative total of more than 499 animal units when any of the following conditions exist:
 - a. A new feedlot is proposed.
 - b. When the parcel on which the feedlot is to be built is less than 80 acres.
 - c. Any expansion or modification or change of use of an existing feedlot:
 - a) resulting in the feedlot having a cumulative total of more than 499 animal units.
 - b) that had previously received an Ellington Township Conditional Use Feedlot Permit.
2. Any feedlot that existed on September 12, 1996, which would have required a Conditional Use Permit if the terms and conditions of this Ordinance were applied thereto, shall be deemed to have such a permit as of that date.
3. **Applications** for a Conditional Use Permit shall be made on the Conditional Use Feedlot Form or special form supplied by the Township. The application shall be accompanied by information as specified in Article VIII B (2), and as is necessary to show compliance with this Ordinance and to inform the residents about the project, including but not limited to:
 - a. A site plan drawn to scale showing the location of all existing and proposed structures, and manure storage areas and their square footage.
 - b. A plan indicating operational procedure and the location and specifics of proposed animal waste facilities including the quantity and type of effluent to be discharged from the site.

- c. The method and plan for disposal of dead animals.
 - d. The manure management plan, including a map showing the location of all manure application sites. Land spreading agreements shall be provided if the applicant does not own the minimum acreage that will be used to apply animal waste.
 - e. The plan for the manner in which odor impact to neighbors will be controlled or mitigated.
 - f. Estimated cost of facility, including barns and manure storage area.
4. **Future Expansions:** The granting of a permit for a feedlot at one site shall not be considered as a right to be granted a permit for an expansion at that site or any other site.
 5. **To Replace or Restore.** If any of the buildings and structures of a feedlot that existed before September 12, 1996 are damaged or destroyed, the buildings and/or other structures may be replaced or restored, and the feedlot restored without obtaining a conditional use permit, except that the number of animal units shall not exceed the number that the feedlot had at the time of the damage or destruction. Buildings or structures shall be replaced or restored in place, or if in a different location on the parcel, they shall conform to the setback and lot development standards of this Ordinance. If the buildings and/or structures of a feedlot having a Conditional Use Feedlot Permit are damaged or destroyed, the feedlot and the buildings and structures may be restored or replaced. The restored buildings, structures, and feedlot shall conform to the terms and conditions of the Conditional Use Feedlot Permit in existence as of the date of the damage or destruction.
 6. **Fees.** The minimum fee for a Conditional Use Feedlot Permit shall be \$100.00 for the first 499 animal units plus \$25 for every additional group of 300 animal units involved. In the case of an expansion of an existing operation which previously obtained an Ellington Conditional Use Feedlot Permit, only the additional animal units shall be counted to determine the fee. In the case of an expansion of an existing operation which has not been previously permitted under these rules, the total animal units at the location shall be used to determine the fee.
 7. **Findings.** No Conditional Use Feedlot Permit shall be issued unless the Town Board finds that all other findings of conditional use permits specified in Article VIII B (7) have been met.
 8. **Hearing.** A public hearing shall be held by the Township Planning Commission before the issuance of a Conditional Use Feedlot Permit as per Article VIII B (4).

9. **Notification by Applicant to Neighbors.** The applicant of a Conditional Use Feedlot Permit shall notify each property owner and resident within 5,000 feet of the proposed feedlot or expansion of a feedlot of his intent to build a feedlot and to apply for a permit. The Applicant shall provide the Town Board with evidence thereof, i.e. an affidavit of mailing with a copy of the notice and a list of all those to whom it was mailed.
10. **Notification by Township to Applicant.** Upon receiving an application for a Conditional Use Feedlot Permit, the Town Board shall inform the applicant of the terms and requirements of the application and shall set a date for a public hearing. Written notice of the hearing shall be given to applicant requesting his/her appearance. Recorded owners of property located within 5,000 feet of the subject property shall be notified in writing of the public hearing by the applicant. Notice of the time, place, and purpose of the hearing shall be mailed to such property owners at least ten (10) days prior to the hearing.
11. **Special Conditions.** In addition to the standards and requirements set forth in this Ordinance, the Town Board may impose additional conditions if they consider them necessary to protect the public health, safety and welfare, or the compatibility of the feedlot with surrounding area. In addition to the special conditions listed in Article VIII B (8), additional conditions may include, but are not limited to, the planting of trees or shrubs to be used as a windbreak or to require that liquid manure from pits be injected into the soil, and the use of other odor-control measures.
12. **Other Provisions.** In addition to the above provisions, the provisions as specified in Article XI B shall also apply to Conditional Use Feedlot Permits unless stated otherwise in those provisions.
- D. **Feedlot Abandonment.** Upon abandonment of a feedlot, termination or non-renewal of any permit or certificate necessary to operate a feedlot, or failure to operate the feedlot in any manner consistent with this Ordinance or with the State and Federal regulations, the landowner and the owner and the operator of any feedlot shall remain responsible for all costs of closure, cleanup or other costs necessary to bring the property into compliance with all Federal, State, County and Township regulations and to restore the property to a suitable use. The Town Board may require the feedlot owner and operator to post a performance bond or other approved security deposit for the installation of required public improvements (i.e. driveways, landscaping, etc.) before being permitted.
- E. **Other Animal Sites** will have a minimum setback of ¼ mile for more than 50 animals.
- F. **Dead Animal Disposal:** Since the disposal of dead animal carcasses is so crucial to the health of all in the surrounding area, the Town Board will check at least once a year, no advance warning necessary, that each feedlot is completely in conformity

with all the regulations of the Minnesota Department of Health and the County Health Department regarding such disposal. If their findings indicate that a Feedlot is not in conformity with the State and County regulations they shall notify the appropriate department and recheck the situation until it is in conformity. Their observations and findings, and required corrections from the Health Department shall be incorporated into the written Township records.

ARTICLE V.

Storage and Disposal Of Manure and Waste Materials

- A. **Lagoons:** In an effort to control odor, discourage the breeding of flies, protect property values and promote public safety, open lagoons for the storage of animal waste from feedlots are prohibited in the township.
- B. **Manure Spreading:** To reduce odors, and discourage the breeding of flies no manure may be spread by irrigation within 1/2 mile of a public park, place of worship, school, or residence not owned by the feedlot operator.
- C. **Waste or Manure Packs:** Any animal manure packs or mounding outside the owner's feedlot must be setback a minimum distance of 1/4 mile from any residence other than owners.
- D. **Waste:** Any use or operation of the land that results in the storage or disposal of materials or animal waste that results in the discharge of matter across boundaries of neighboring property, including emission into the atmosphere or into the subsoil in such concentration as to endanger the public or private health, safety, comfort of the public or cause injury or damage to any persons property, business or endeavors is prohibited except as provided otherwise in this Ordinance.

ARTICLE VI

Mining

- A. **Statement of Policy.** It is the policy of Ellington Township to supervise and manage the handling, placement, and environmental concerns regarding the land disturbed during evacuation of new mines opened and established after the adoption of this Ordinance.
- B. **Definitions.** For the purpose of this section, the term mineral shall include aggregates, In addition to the definitions and terms in Article II, the following terms and words are defined as follows:
 - 1. **Excavations.** Any artificial alteration of the earth, excavated or made by the removal from the natural surface of the earth of soil, sand, gravel, stone or other

matter.

2. **Explorations:** All digging, drilling, quarrying, excavating, etc. done by a person in order to determine whether a site is worthy of opening and developing as an operation or business venture.
 2. **Operator.** Any landowner, operator or lessee of mineral rights engaged in or preparing to engage in mining or processing operations.
 4. **Reclamation.** Activity which is taken during and following a mining operation to return the area to a natural state as much as possible or take actions that would substantially reduce adverse environmental effects from occurring.
- C. **Conditional Use Permit Required.** No person shall hereafter do exploration or open and/or develop a new mine for processing of sand, gravel, limestone or other minerals on any land within the Township without first obtaining a conditional use permit for mining or exploration from the Town Board.
- D. **Application for Permit.** Any person desiring to commence the mining and/or processing of sand, gravel, limestone or other minerals shall make written application for a conditional use permit to the Town Board. Application by the operator and landowner for such permit shall be made upon a form furnished by the Township. Applications shall include a Reclamation Plan.
- E. **Safety Requirements.** Any pits caused by excavations, any piling of materials, any cave-like structures, and other alterations of the land that could endanger people, especially children, shall be fenced off, have posted appropriate warning signs, and and take all other reasonable safety measures.
- F. **Mining Setback Requirements.** Mining operations shall not be conducted closer than 300 feet from the boundary of any residence nor closer than 50 feet from the boundary of any adjoining property line, unless the written consent of the owner of such adjoining property is first secured. Dust and noise producing processing or loading or hauling shall not be conducted closer than 300 feet from the boundary of any residence, or any other accessory building or use where the dust and noise would have a detrimental effect, which existed prior to the beginning of the mining operation. Excavating or stockpiling shall not be conducted closer than 200 feet from the centerline of any existing or platted street, road or highway.
- G. **Exemptions.**
1. Any mining operation legally commenced prior to the adoption of this Ordinance shall be exempt from the above requirements, except that said operations shall not be exempt from the requirements pertaining to the operation of motor vehicles, dust and noise control, safety regulations and maintenance

of the appearance of the property.

2. Any person that shall excavate, quarry or remove any sand, gravel, limestone or other minerals for personal use or for sale not exceeding 200 cubic yards or for personal use not exceeding 500 cubic yards in any calendar year shall be exempt from the provisions of Article VI of this Ordinance except VI E.
3. Excavations for the sole purpose of preparing a site for residential, commercial or industrial development on property from which the material was extracted, excavation of clay to make the road-bed for the construction of a public or private town road, or land alterations for agricultural purposes shall be exempt from the provisions of Article VI of this Ordinance except VI E.

H. Other Provisions. In addition to the above provisions, the provisions as specified in Article VIII B shall also apply to Conditional Use Mining Permits unless stated otherwise in those provisions.

ARTICLE VII. Miscellaneous Provisions

A. Essential Services or Utilities. The Town Board shall, subject to limitations as set for in the laws of Minnesota, require a Conditional Use Permit for essential services construction projects such as transmission lines of voltage of 35 KV or greater, bulk gas or fuel being transferred from station to station via pipeline and not intended for in route consumption, and electric substations or similar essential service structures.

Pipelines, if permitted, shall be placed at least five (5) feet below ground surface.

B. Excavation and Construction on Township Road Right-Of-Way. No person, shall engage in any ditching, drainage project, excavations, fill or construction on township road right-of-way without first securing a permit authorizing the project from the Town Board. A \$10 fee will be charged for this permit application.

1. In the event of enlargement of an existing waterway through a town road to accommodate additional run-off, the person responsible for the increased watershed shall also be responsible for the cost of increasing waterway capacity across the town road.
2. A permit, if issued under this section, shall be in accordance with the laws of State of Minnesota and shall state thereon that said person shall assume total responsibility and liability for the construction, operation and maintenance. The permittee or assignee shall defend, indemnify and hold harmless the Township of Ellington, its officers, agents or employees against any and all actions, claims or demands

whatsoever which may arise from or on account of the issuance of said permit for the excavation or construction, maintenance or operation of any facility stated.

- C. **Windbreaks.** In order to minimize snow drifting problems along township roads, it shall be required that field windbreaks be setback a distance of at least 200 feet from the center line of the road and building-site windbreaks be set back at least 50 feet from the center line of the road. These requirements shall not apply to existing windbreaks. A snow fence is not a field windbreak.
- D. **Farming on Township Road Right-Of-Ways.** It shall be unlawful to engage in a farming practice other than hay-land farming within the road right-of-way or within thirty-three (33) feet of the centerline of a township road. This shall be construed to mean that cultivated row cropping, small grain cropping, pasturing, drainage ditches, fences or rock piles is prohibited on township road right-of-ways or within thirty-three (33) feet of the centerline of the township road. In any case where the actual right-of-way width of a town road is a matter of record in the County Recorder's Office, then the record right-of-way width shall govern. Existing nonconforming uses in violation of this requirement shall be eliminated within a period of one year from date of adoption of this Ordinance. The depositing of manure on the right of way or within thirty-three (33) feet of the centerline of a town road or any other public road right of way shall be prohibited.
- E. **Noise.** Any device designed for the purpose of emitting and generating noises to frighten and deter birds and animals from entering upon private property shall remain inoperative and silent between the hour of 8.00 P.M. in the evening to 8.00 A.M. in the morning of the next day.
- F. **Unlicensed Vehicles.** Four (4) or more inoperative or unlicensed motor vehicles stored in excess of three (3) months shall be out of public view or meet the following requirements:
- a. Shall be setback 200 feet from the property line and from the centerline of a public road.
 - b. Shall have a vegetative screening or fencing so as to not be visible from a public road, or nearby residence.

ARTICLE VIII.

Administration, Appeals Adjustments, Permits, Amendments, And Enforcement

A. Administration.

1. **The Town Board.** The Town Board shall be responsible for the administration

of this Ordinance. The Town Board shall have jurisdiction in all matters permitted by law and shall have the specific and general powers provided in this Ordinance, among others, including those as follows:

- a. May appoint a Zoning Administrator and shall appoint members of the Planning Commission and, except as provided in this Ordinance, determine their functions, duties, and responsibilities;
 - b. Make all final determinations of questions relating to the interpretation of this Ordinance;
 - c. Make all final decisions concerning conditional use permit applications;
 - d. Consider, adopt or reject proposed zoning district or text amendments or repeal of this Ordinance; and
 - e. To act as the Board of Appeals and Adjustments;
 - f. To inspect any site to insure compliance with all provisions of this Ordinance.
2. **Zoning Administrator.** A Zoning Administrator may be appointed to perform the functions necessary to carry out the purposes of this Ordinance. The Administrator's duties shall include, but are not limited to:
- a. Receive, file and forward copies of all applications for appeals, variances, amendments, conditional uses, permits or other matters to the designated official bodies;
 - b. Conduct inspections of building sites and/or uses of land to determine compliance with the terms of this Ordinance;
 - c. Make periodic reports to the Town Board of zoning issues and activity, and make a report of annual activity at the Annual March Town Meeting.
3. **Planning Commission.** Annually, the Town Board shall appoint an Ellington Township Planning Commission. The Planning Commission shall consist of three members. All members shall be township residents with at least one member being a duly elected supervisor of Ellington Township. The Town Board shall determine the functions, duties and responsibilities of the Planning Commission, except as otherwise provided in this Ordinance. Duties of the Planning Commission shall include, but are not limited to, the following:
- a. Conduct public hearings on all conditional use permit applications and variances (including feedlot and mining), and make a recommendation to the Town Board.

- b. Conduct public hearings on all amendments proposed to the Comprehensive Plan and Ordinance.
 - c. Periodically (at least every 3 years) hold meetings to review the Ellington Township Comprehensive Plan and Ordinance.
4. **Board of Appeals and Adjustments.** The Town Board, acting as the Board of Appeals and Adjustments, may vary or modify the strict application of the regulations and provisions of this Ordinance as follows:
- a. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning Ordinance.
 - b. To hear requests for variances from the literal provisions of this Ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the Ordinance. (See definition of "Undue Hardship" in Article II). The board or governing body as the case may be may impose conditions in the granting of variances to insure compliance and to protect adjacent properties. The variance shall not result in a conflict with the Comprehensive Plan.
 - c. The procedure, fees and reimbursement for professional assistance and services for an application for an appeal or variance shall be the same as for conditional use permits as provided in this Ordinance. Fees for appeals or variances concerning animal feedlots shall be the same as for conditional use feedlot permits which are based on animal units as prescribed in Article II.
 - d. The Planning Commission shall review all appeals and variance requests and make a recommendation before a final decision by the Town Board who act as the Board of Appeals and Adjustments. The Planning Commission must report to the Town Board at least 10 days prior to the end of any statutory time requirement to act on applications. If the Planning Commission does not report on time, the Town Board shall proceed with its final decision.
 - e. All appeals from the decision of the Ellington Town Board, who represent the community, as the Board of Appeals and Adjustments, shall be directed to a court of competent jurisdiction. Any such appeal must be filed within sixty (60) days of the Ellington Town Board's final action.

B. Conditional Use Permit.

1. **Notification to Township Of Proposed Feedlot.** The Township shall be notified by

letter within ten days by the applicant of any applications to federal, state or county agencies for feedlot permits for the construction or expansion of any animal feedlots. A copy of the applications to other agencies shall be included with the letter.

2. **Any feedlot** that existed on September 12, 1996 and under the terms of this Ordinance which would have required a permit if the terms and conditions of this Ordinance were applied thereto, shall be deemed to have a permit as of that date.
3. **Application** for conditional use permit shall be made on a form supplied by the Township and shall include such additional information as deemed necessary by the Town Board.
 - a. A map or aerial photo showing all existing residences on the site, as well as all proposed and existing buildings and structures, driveways, access roads, parking spaces, and loading areas;
 - b. A map or aerial photo indicating dimensions of the project, lakes, ponds, water courses, wetlands, drainage ditches, roads, wells (including abandoned wells), contour and surface water drainage within 1,000 feet of the project;
 - c. A sketch of all landscaping and screening plans, if applicable;
 - d. A sanitary sewer and water plan with estimated use per day, if applicable;
 - e. Soil type;
 - f. Estimated cost of project;
 - g. A copy of any applications for permits made to any federal, state or local authority for the same project;
 - h. Certification from Dodge County that all property taxes have been paid;
 - i. Such other information as is deemed necessary and reasonable by the Town Board to adequately review the request.
4. **Fees.** The fees for conditional use permit shall be in the sum of One Hundred Dollars (\$100.00) . The fees for a Conditional Use Feedlot Permit shall be determined by Animal Units (See Article IV C 5).
5. **Public Hearing.** A public hearing shall be held on all conditional use permit applications Notice of public hearing shall be given at least ten days prior to said hearing by posting

and by publication in the official paper for the publication of Ellington Township Official Notices. Recorded owners of property located within 5,000 feet of the subject property shall be notified in writing of the public hearing by the applicant. Notice of the time, place, and purpose of the hearing shall be mailed to such property owners at least ten (10) days prior to the hearing.

6. **Filing.** A certified copy of any conditional use permit (including feedlot or mining) shall be filed with the Dodge County Recorder. It shall include the legal description of the property included.
7. **Future Expansions:** A person granted a permit who later wants to expand on that site, or another site, will be totally responsible for having planned so that any expansion needed for other stages of production, or to in any way further his operation meets all the requirements of this Ordinance.
8. **Findings.** In granting a conditional use permit, the Town Board shall consider the effect of the proposed use upon the health, safety, and general welfare of the occupants of surrounding lands, existing and anticipated traffic conditions, including parking facilities on adjacent streets and land, and the effect on property values and scenic views in the surrounding area. It shall make the following findings, among others, where applicable:
 - a. The project is in compliance with the setback and other provisions of this Ordinance unless a variance has been granted by the Township.
 - b. The use is not in conflict with the Comprehensive Plan of the Township.
 - c. That the use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair neighboring property values in the area.
 - d. That if the use causes a visual conflict in the area, it must be out of view or separated by screening from adjacent land so that existing homes or businesses will not be depreciated in value or the scenic view of recreation and wildlife areas will not be affected.
 - e. The use will not create an excessive burden on parks, schools, streets, water supply, public drainage systems, sewage disposal facilities, and other public facilities and utilities which serve or are proposed to serve the area.
 - f. The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties.
 - g. That the road on which the project is proposed is adequate to handle increased traffic during construction and operation, and that the use will not cause traffic

hazards or congestion.

- h. Existing businesses or home occupations uses nearby will not be adversely affected because of curtailment customer trade brought about by intrusion of noise, odor, glare, or general unsightliness.
 - i. That the establishment of the use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area.
 - j. That adequate utilities, drainage, and other necessary facilities have been or are being provided.
 - k. That adequate access roads and other measures have been or will be taken to provide sufficient parking off the Township road and adequate loading space to serve the use.
 - l. That adequate measures have been or will be taken to prevent or control rodents, insects, offensive odors, fumes, dust, noise and vibration in order that none of these will constitute a nuisance and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
 - m. The county has certified that all property taxes for the property have been paid for the property in question.
9. **Special Conditions.** In addition to those standards and requirements expressly specified by this Ordinance, the Planning Commission may recommend, or the Town Board may impose special conditions to a Conditional Use Permit which it considers necessary to protect the public health, safety and general welfare, to avoid the diminution of values of surrounding land, and to protect the community as a whole. Violation of any special condition attached to any conditional use permit shall be considered a violation of this Ordinance.

These special conditions may include, but are not limited to the following:

- a. Increasing the required lot size or yard dimension, but not to exceed standards.
- b. Limiting the height, size or location of buildings.
- c. Controlling the location and number of vehicle access points.
- d. Increasing the street-width.
- e. Increasing the number of required off-street parking spaces.

- f. Limiting the number, size, location or lighting of signs.
 - g. Requiring ditching, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
 - h. Designating sites for open space.
 - i. The use of odor, noise, or dust control measures
10. **Inspections.** The Town Board, its Planning Commission, its agents, and employees are authorized to enter upon all property that is the subject of an application for a Conditional Use Permit or is governed by a Conditional Use Permit
- a. to make inspections to insure that the property qualifies for a permit; and
 - b. to assure that the terms and conditions of a permit that has been granted are being fully complied with.
11. **Reapplying:** Once denied a variance or conditional use permit a person making application may reapply for the same use on the same site at the next Town Board meeting.
12. **Appeals.** All appeals from the decision of the Town Board relating to conditional use permits (including feedlot and mining) shall be filed within sixty (60) days of the Town Board's decision with the District Court.
13. **Review of Conditional Use Feedlot Permit.** Conditional Use Feedlot Permits will be reviewed by the Town Board periodically or upon their receiving and validating a complaint. After notification to the permit holder and after the Town Board conducts a hearing, the permit may be amended as conditions change and experience with the site may warrant.
14. **Revocation of Permit.** Upon failure of the holder of a Conditional Use Permit to fully comply with the provisions contained herein and when same has been certified by the Town Board, said Town Board shall give notice to said permit holder and owner of the land setting forth the provisions of this Ordinance being violated. The Town Board shall set a time and place of a hearing to be held by the Town Board of Supervisors to consider such violation of provisions of this Ordinance. If the Town Board shall find that provisions of this Ordinance have not been complied with by the permit holder and the terms of the Conditional Use Permit have been violated, then the Conditional Use Permit may be suspended or terminated by said Town Board. The third time a complaint is received and validated concerning the same permit holder and same condition of the permit that conditional use permit will be revoked immediately. An application for reinstatement of the permit may be presented, but only after a waiting period of one

year and the Town Board unanimously agreeing that the applicant's plan to correct the offense is thorough and adequate.

C. **Amendments to Ordinance.** An amendment to this Ordinance may be initiated by the Town Board, the Planning Commission, or by petition of not less than ten (10) percent of the legal voting residents of the Township that registered for the last November General Election held in the Township. An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study and report and may not be acted upon by the Town Board until it has received the recommendation of the Planning Commission on the proposed amendment or until 60 days have elapsed from the date of reference of the amendment without a report by the Planning Commission. All amendments shall comply with the following:

1. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the township at least ten days prior to the day of the hearing.
2. The Planning Commission shall conduct the hearing, but any action taken by the Planning Commission on an amendment shall be considered a recommendation to the Town Board who shall decide final adoption' of an amendment.
3. Amendments adopted by the Town Board shall be filed for record in the County Recorder's Office.

D. **Enforcement, Violation and Penalty.**

1. Any person, party, firm or corporation who shall violate any of the provisions of this Ordinance or shall fail to comply with any of the provisions of this Ordinance or shall make any false statements in any document required to be submitted under the provisions hereof shall be guilty of a misdemeanor. Upon conviction thereof, such person, firm or corporation shall be punished by a fine and/or imprisonment as authorized by law for the punishment of a misdemeanor. Each day that a violation continues shall constitute a separate offense.
2. In the event of a violation or a threatened violation of this Ordinance, the Town Board or any member thereof, in addition to the other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations.
3. Any person, party, firm or corporation damaged as a result of a violation of this Ordinance may pursue appropriate legal remedies in a Court of competent jurisdiction or governmental agency, including but not limited to an injunction, mandamus and administrative remedies in addition to the prosecution of the misdemeanor.

4. All appeals from any decision by the Town Board shall be directed to a court of competent jurisdiction. Any such appeal must be filed within thirty (30) days of the Town Board's final action.

E. Validity, Separability and Effective Date.

1. **Validity.** The Ellington Township Comprehensive Plan and Ellington Township Ordinance are adopted pursuant to Minnesota Statutes Chapter 462 and their validity shall be determined in accordance with the laws of the State of Minnesota. The Plan shall be considered as adopted before the Ordinance.
2. **Separability** It is hereby declared to be the intention that the several provisions of this Ordinance and Comprehensive Plan are severable in accordance with the following:
 - a. If any court of competent jurisdiction shall adjudge any sections, clauses or provisions of this Ordinance to be invalid, such judgment shall not affect any other sections, clauses or provisions of the Ordinance not specifically included in said judgment.
 - b. If any court of competent jurisdiction shall adjudge invalid the application of any section, clause, or provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect other property, buildings or structures.
3. **Effective Date.** The Ellington Township Zoning Ordinance and Ellington Township Comprehensive Plan shall be effective upon adoption. The Date of adoption is as follows: _____

Ellington Township Supervisors' Signatures

By _____
Supervisor

By _____
Supervisor

By _____
Supervisor

ATTESTED

By _____
Clerk of Ellington Township