

**Regular Meeting Sunrise Township  
Thursday, April 20, 2017  
Royal Wilcox Community Center**

Chair Carl Peter “Pete” Johnson called the Regular Sunrise Township Board Meeting to order at 7:00 p.m. Pledge of Allegiance was recited.

**Board Members Present:**

Carl Peter “Pete” Johnson, Chair  
Jeske Noordergraaf, Vice Chair  
Gerald Bjork  
Eric Leivian  
Deborah Graleske-Kelleher

Treasurer: Karen Anderson  
Clerk: Wendy S. Kowalke

**Others Present:**

Lynn Wolleat, Maintenance  
Tom Kelleher  
Shane Stepp

Todd Hagen, Ehlers  
Rick Greene, Commissioner  
Manley Olson

Christina Mlejnek, Engineer  
Lisa Manske  
Josh Manske

**Approve Agenda:** Motion by Eric Leivian, second by Gerald Bjork, to accept the April 2017 agenda with additional agenda items of Town Board Members Responsibility Division and Ziegler . Motion carried.

**Meeting Minutes:** Motion by Jeske Noordergraaf, second by Gerald Bjork to approve March 2017 minutes with the amendment of passing the Right-of-Way Management Ordinance, Ordinance Regulating the Placement of Obstructions within the Township’s Right-of-Way, and Ordinance Regulating the Construction and Maintenance of Driveways / Culverts within the Township. Motion Carried. Motion by Jeske Noordergraaf, second by Gerald Bjork to retract the amendment. Motion carried.

**Canvass Board:** Motion by Jeske Noordergraaf, second by Eric Leivian to approve the Canvass Board Meeting Minutes. Motion carried.

**Clerk Update:** Letter from the U of M Extension, Carlton County, informing Sunrise Township that the Carlton County By-products Program has accept an application to land apply wood ash and/or lie on Ryan Lind’s property located at 49025 Government Road, Rush City, MN to raise the soil PH.

**Treasurer Report:** Motion by Jeske Noordergraaf, second by Gerald Bjork to accept the treasurer’s report as presented with claims list 5074 through 5098 and additional claims as follows:

Xcel Energy .....\$21.33  
Ziegler Cat .....\$1,245.00  
Motion carried.

Motion by Jeske Noordergraaf, second by Eric Leivian pay one additional claim as follows:  
Check Service .....\$288.00  
Motion carried

**Commissioner Update:** Commissioner Rick Greene informed the Town Board that Oriole Avenue blacktop funding has been approved by the Chisago County Board. An agreement will be signed between Chisago County and Sunrise Township at a future date. CR 11 will be complete. Bid for CR 57 will open May 1. The Court upheld the County denial of Sno-barons amended CUP.

**Garage Sale – Lisa Maske:** Lisa Manske is trying to organize a Sunrise city-wide garage sale. Lisa Manske will be advertising on craigslist and garage sale web-sites. Lisa is planning on organizing the Sunrise garage sale during the weekend of Almelund Threshing Show. Place on post card advertising for Sunrise Community Night Out.

**CenturyLink – Todd Hagen, Ehlers:** Pre-Bond Sale. Bond sale for May 18, 2017. The DEED grant deadline is around the end of June.

The bond is for \$625,000 dollars. The bond will be a 10-year payback, leaning toward a service-bond. This will be a service charge. Clerk Kowalke to e-mail a list of banks and what city they are in to Todd Hagen. Mr. Hagen would like to get the best deal. This bond can be pre-payable on any date. \$941.27 to prepay, or \$58.75 semi-annually. Send out the week of April 24. The Subordinate Service District will be officially established May 1. Bank will invoice for bond payments, it will be non-rated.

Resolution to authorize and send it out and come back on May 18, 2017 with the results. Motion by Jeske Noordergraaf, second by Eric Leivian to adopt Resolution providing for the Sale of \$625,000 Taxable General Obligation Subordinate Service District Bonds, Series 2017A. Motion carried.

Resolution No. 2017/04/20-3

Board Member Jeske Noordergraaf introduced the following resolution and moved its adoption:

**Resolution Providing for the Sale of  
\$625,000 Taxable General Obligation Subordinate Service District Bonds, Series 2017A**

- A. WHEREAS, the Town Board of Sunrise Township, Minnesota has heretofore determined that it is necessary and expedient to issue the Town's \$625,000 Taxable General Obligation Subordinate Service District Bonds, Series 2017A (the "Bonds"), to provide money to CenturyLink for the local share of a high-speed internet FTTH upgrade in their service area; and
- B. WHEREAS, the Town has retained Ehlers & Associates, Inc., in Roseville, Minnesota ("Ehlers"), as its independent municipal advisor for the Bonds in accordance with Minnesota Statutes, Section 475.60, Subdivision 2(9);

NOW, THEREFORE, BE IT RESOLVED by the Town Board of Sunrise Township, Minnesota, as follows:

1. Authorization; Findings. The Town Board hereby authorizes Ehlers to assist the Town for the sale of the Bonds.

2. Meeting; Proposal Opening. The Town Board shall meet at 7:00 p.m. on May 18, 2017, for the purpose of considering proposals for and awarding the sale of the Bonds.
3. Offering Document. In connection with said sale, the officers or employees of the Town are hereby authorized to cooperate with Ehlers and participate in the preparation of an offering document for the Bonds.

The motion for the adoption of the foregoing resolution was duly seconded by Board Member Eric Leivian and, after full discussion thereof and upon a vote being taken thereon, the following Board Members voted in favor thereof: Carl Peter "Pete" Johnson, Jeske Noordergraaf, Eric Leivian, Gerald Bjork, and Deborah Graleske-Kelleher

and the following voted against the same: NONE

Whereupon said resolution was declared duly passed and adopted.

Dated this 20<sup>th</sup> day of April, 2017.

**Sunrise Township Land Purchase Agreement**: Bob Palmer's attorney and Attorney Robert Ruppe (Sunrise Attorney) are working out a survey line not a topographical line; it has to be a property line not a contour line.

**SUNRISE TOWNSHIP  
CHISAGO COUNTY  
STATE OF MINNESOTA**

**RESOLUTION NO. 2017/04/20-4**

**RESOLUTION DETERMINING THAT REAL PROPERTY IS NOT REQUIRED TO BE  
HELD FOR A SPECIAL PURPOSE AND AUTHORIZING ITS SALE PURSUANT TO MINN.  
STAT. § 366.01, SUBD. 9**

**WHEREAS**, the Town Board wishes to sell the real property legally described on attached Exhibit A to Robert C. Palmer, Jr. (as to an undivided half interest) and Steven D. Mark as Trustee of the Steven D. Mark Trust Under Agreement dated February 15<sup>th</sup>, 2005 (as to an undivided half interest) (collectively the "Purchasers") for the agreed upon purchase price; and

**WHEREAS**, the Town Board finds and determines that it is in the public interest to sell the property legally described on attached Exhibit A to the Purchasers.

**NOW THEREFORE BE IT RESOLVED** by the Town Board of Sunrise Township, Chisago County, Minnesota as follows:

1. That real property legally described on attached Exhibit A is not required to be held for a special purpose; and
2. That the Town Board hereby authorizes the sale of the real property legally described on attached Exhibit A to Purchasers; and

3. The Town Board Chairman and the Town Clerk are hereby authorized to execute any necessary documents required for the sale of the real property legally described on attached Exhibit A to Purchasers; and
3. The Town Clerk is directed to file a certified copy of this Resolution in the records of the Township and provide a copy to Purchasers for use at Closing.

Passed this 20<sup>th</sup> day of April 2017.

**River Road:** Dust control is being placed on River Road on April 21, 2017.

**Mill Street:** Sunrise Township needs to find out where the roadway is. Shane Stepp is concerned about the 250 to 300 feet in front of Stepp Mfg. building. There is no residents that live on that road. Mr. Stepp is not willing to contribute much to improving the road. Christina Mlejnek, Engineer, will gather information together for paving the road and take soil borings, if necessary, to come up with an estimate. Christina Mlejnek will figure out where the road is. Motion by Gerald Bjork, second by Jeske Noordergraaf to figure out where the road is located with option of completing soil borings at the discretion of the Christina Mlejnek, Engineer. Motion carried.

**Royal Wilcox Community Center:** Christina Mlejnek will check into placing the Royal Wilcox Community on the Historical Registry. Place on May.

**Sunrise Township Ordinances:** Motion by Deborah Graleske-Kelleher, second by Eric Leivian to adopt the Right-of-Way Management Ordinance, Ordinance Regulating the Placement of Obstructions within the Township’s Right-of-Way, and Ordinance Regulating the Construction and Maintenance of Driveways / Culverts within the Township.. Motion carried.

**SUNRISE TOWNSHIP  
CHISAGO COUNTY  
STATE OF MINNESOTA**

**ORDINANCE NO. 2017/04/20-5**

**ORDINANCE REGULATING THE CONSTRUCTION  
AND MAINTENANCE OF DRIVEWAYS/CULVERTS  
WITHIN THE TOWNSHIP**

**SUNRISE TOWNSHIP, CHISAGO COUNTY, MINNESOTA HEREBY ORDAINS:**

1. All parts of ordinances in so far as they are inconsistent with the provisions of this Ordinance are hereby repealed.
2. All construction of driveways, approaches, culverts, and other activities in public Township rights-of-way undertaken after the date of enactment of this ordinance, must comply with the terms of this ordinance.

**Section 1. Authority.**

This ordinance is adopted pursuant to Minn. Stat. Chapter 462 and the Township's police powers.

**Section 2. Purpose.**

The purpose of this ordinance is to promote the public safety, the general welfare of the community and to enforce the goals and policies of Sunrise Township. This ordinance applies to the construction or modification of driveways, culverts and public accesses located within Sunrise Township that provide access to buildings constructed or to be constructed after the effective date of this ordinance.

**Section 3. Definitions.**

“Driveway” is defined as a road or path giving access from a township road, private road or cartway to one or more dwelling units or commercial buildings located or to be constructed on adjacent lands.

“Field Approach” is defined as a path or access route from a public road to an adjacent field or pasture.

**Section 4. Permit Required.**

- A. That all persons seeking to construct a new driveway, new field approach or to convert an existing field approach to a driveway must apply for and obtain a driveway/culvert permit from the Town Board prior to commencing construction. Only one driveway access or field approach to the property shall be allowed without the permission of the Town Board.
- B. Every application for an access driveway/culvert permit shall provide such information as the Town Board may require.
- C. No driveway/culvert permits shall be issued to persons not in compliance with the terms of this Ordinance.

**Section 5. Conditions of Permit.**

- A. No work under this Provision is to be started until the Town Board or its designee approves the access driveway or entrance permit application and all applicable fees and escrow deposits have been received by the Township.
- B. All work performed by the applicant covered by this ordinance shall comply with all specifications contained on attached Exhibit A and any additional requirements of the Township Engineer.
- C. No driveway shall cross a wetland unless the wetland permit has first been obtained.
- D. No obstructions shall be constructed or planted in the township right-of-way. Obstructions include, but are not limited to; retaining structures, rip rap, posts, trees, shrubs and other such items. Mailboxes and support posts may be located within the Township right-of-way; however, the Township is not responsible for damage to mailboxes or posts during maintenance or snowplowing of the right-of-way. All mailbox supports must comply

with Federal Highway Administration and Postal Service guidelines. Stone, masonry or other non-breakaway mailbox supports are not allowed within the Township right-of-way.

- E. The applicant shall allow such persons, as the Town Board shall designate to enter onto their property to inspect prior to the issuance of the permit, during the progress of the work and the finished work.
- F. Unless a written extension of time has been granted by the Town Board or its designate, if work is not completed within 1 year of the date of issuance of the permit, any driveway or entrance permit, which has been granted under this ordinance, is void and the permit fee and escrow deposit are forfeited and applicant must reapply for a permit should they wish to continue with work covered under this ordinance.
- G. If required by the Town Board or its designate, the applicant shall provide and install the necessary pipe and aprons for the driveway or entrance pursuant to the Township's specifications.
- H. A driveway must contain at least 4 to 6 inches of 3" clear rock for at least 50 feet from the Township road before any footings are poured for construction on the site.
- I. The applicant shall furnish and place all soils needed in the construction or reconstruction of the driveway and/or entrance embankment.
- J. Unless otherwise agreed to by the Town Board or its designate, the applicant will surface with gravel that portion of the driveway or entrance within the road right-of-way.
- K. The applicant may surface that portion of the driveway within the road right-of-way using materials other than gravel provided the applicant has obtained the approval of the Town Board or its designee prior to the start of the work.
- L. Where work on the traveled roadway is necessary, traffic must be protected, and signing and proper barricades must be utilized pursuant to the Minnesota Manual of Uniform Traffic Control Devices.
- M. Dirt or debris from driveway/access construction activities are NOT ALLOWED on Township roads and shall be removed within 24 hours of placement or within 3 hours notice to do so by the Town Board or its designee, whichever is earlier. If an applicant fails to comply with this section, the Town Board may remove the dirt or debris itself and charge the cost of clean up against the deposited escrow money. Costs incurred by the Township to clean up the street in excess of the deposited escrow money may be assessed to the offending property owner pursuant to Minnesota Statutes §429.101.
- N. The roadside must be cleaned after work is completed and restored to a condition similar to that prior to construction.
- O. The applicant must place stakes in exact location of the proposed driveway prior to review by Town Board or its designee, and again prior to culvert delivery.

- P. Applicant shall construct only one driveway per parcel of land without the express written permission of the Town Board.
- Q. Applicant shall be responsible for cleaning and maintenance of any culvert installed under this ordinance. Should applicant fail to comply with this requirement, the Township may assess the cost of any maintenance to the applicant pursuant to Minnesota Statutes §429.101.
- R. If any excavation is to take place “Gopher State One Call” is to be notified at (800) 252-1166 prior to start of construction.
- S. After construction is completed, the driveway shall remain clean and free of debris at all times. Any debris deposited on the driveway or roadway shall be removed immediately.

**Section 6. Inspection of the work, escrow amount and fees.**

- A. Prior to construction of the driveway and installation of the culvert, the applicant shall meet with the Township Engineer or their designate at the site to inspect the site, to determine the location of the driveway or field approach, and to determine the scope of the work to be performed. Every new driveway or field approach shall also be required to have an inspection after the work is completed.
- B. Applicant shall establish with the Township an escrow fund for any costs incurred by the Township relating to the construction of the driveway or installation of the culvert including, but not limited to, repairing damage to any roadways as a result of the construction of the driveway and the installation of the culvert, turf establishment and removing an unacceptable driveway. The escrow amount shall be collected even if there is an existing driveway on the property. The amount of the initial escrow shall be established by a resolution of the Town Board. If additional escrow is required or bills incurred beyond the escrow amount, applicant shall be billed directly for such costs and applicant agrees to furnish additional monies as requested by the Township. Any amounts not utilized from this escrow fund shall be returned to the applicant, without interest, when all improvements have been completed, all financial obligations to the Township have been satisfied, and the Town Board has approved the final inspection.
- C. Applicant shall provide to the Township a nonrefundable permit application fee (in addition to the escrow deposit) to cover the Township’s inspection costs. The Town Board shall establish the amount of the permit application fee. However, an additional fee as determined by the Town Board shall be required, if the applicant installs the driveway prior to scheduling an inspection by the Township. This additional nonrefundable permit application fee is to cover the Township’s additional inspection and administrative costs.
- D. After construction is completed the applicant shall notify the Township that the work has been completed and is ready for final inspection and approval by the Town Board or its designee.

- E. No changes or alterations in the approved construction may be made at anytime without the written consent of the Town Board or its designee.
- F. If at the time of final inspection, the driveway and related grading and turf establishment is found to be acceptable, any remaining escrow deposit shall be refunded, without interest, at the next Township Board meeting.
- G. Unless the Township has granted a written extension of time, if the Town Clerk is not notified within one year of the permit being issued that the work has been completed and is ready for inspection, the permit will be deemed null and void and any escrow deposit will be forfeited to the Township.

**Section 7. Indemnification.**

- A. The applicant, his successors and assigns, as a condition precedent to obtaining permit approval, hereby agree to release Sunrise Township, its officers and agents, from any and all liability and claims concerning the herein above described permit request, construction of the subject work, and the finished driveway or entrance.
- B. The applicant, applicant's successors and assigns, as a condition precedent to obtaining permit approval, hereby agree to hold harmless, indemnify and defend Sunrise Township, its officers and agents, from any and all liability and claims concerning the herein above described permit request, the construction of the subject driveway or entrance work, and the finished driveway or entrance, and further shall be deemed to have consented to the assessment of clean-up costs as set forth in this ordinance.
- C. The Township shall have no responsibility to repair a driveway that encroaches upon a public right-of-way that is damaged during the course of Township maintenance of the roadway.

**Section 8. Violation.**

- A. A violation of this ordinance shall be grounds for the immediate revocation of the access driveway or entrance permit.
- B. In the event of a violation of this ordinance, the Town Board may institute appropriate actions or proceedings, including requesting injunctive relief to prevent, restrain, correct or abate such violations. Should the Township determine to correct or abate such violations, the applicant or property owner shall be invoiced for the Township's costs not covered by the escrow deposit which shall be paid within 30 days of the date of the invoice, should the applicant or property owner not reimburse the Township within said time, the Township shall be authorized to certify said unreimbursed costs to the County Auditor for payment with the owner's property taxes pursuant to Minn. Stat. § 366.012. All unused escrow funds will be returned to the applicant upon completion of processing of the application in question.
- C. Further, each day of violation of this ordinance shall be deemed a misdemeanor for which the Township may bring prosecution. In the event of a successful prosecution, then the



prosecution costs may be added to any fines or penalties imposed by the Court, all as provided by statute. The maximum penalty shall be the same as the maximum penalty provided by Minnesota law for misdemeanor violations.

**Section 9. Separability.**

It is hereby declared to be the intention that the several provisions of this ordinance are separable in accordance with the following: If any court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included in said judgment.

**Section 10. Effective date.**

This ordinance shall be in full force and effect from and after its passage and publication.

Adopted by the Town Board of Sunrise Township, this 20th day of April, 2017.

**TOWN OF SUNRISE  
CHISAGO COUNTY  
STATE OF MINNESOTA**

**ORDINANCE NO. 2017/04/20-6**

**ORDINANCE REGULATING THE PLACEMENT OF OBSTRUCTIONS  
WITHIN THE TOWNSHIP'S RIGHT-OF-WAY**

The Town Board for the Town of Sunrise, Chisago County, Minnesota hereby ordains:

**Section 1. Authority.**

As the road authority, the Town Board has broad authority to regulate what occurs within the Township's road rights-of-way. This authority is found in Minnesota Statutes § 365.10, Subd. 17, a variety of sections in Chapters 160, 164, 165, 169, 222, 237, 368, and other chapters as well as the Township's police powers.

**Section 2. Purpose.**

The Town Board finds that placement and installation of rocks and other man-made obstructions in the public road rights-of-way by the owners and occupants of abutting property creates potential safety hazards for motorists, bicyclists and pedestrians; impedes, hinders or interferes with the free and safe passage and parking of vehicles; and renders snow removal and roadway maintenance more difficult. The Town Board determines it in the best interests of the Township and its residents to prohibit these obstructions and hold property owners responsible for removal of the obstructions.

The purpose of this ordinance is also to promote the public safety, the general welfare of the community and to enforce the goals and policies of Sunrise Township. This ordinance applies to the

placement of any obstructions within the Township's road right-of-way including, but not limited to, violations of Minnesota Statute §160.2715 or other relevant Minnesota State Statutes.

### **Section 3. Definitions.**

For purposes of this Ordinance, the following definitions shall apply:

- (a) "Man-Made Obstruction" means an object, structure, rock, planting, post, barrier, wall, fence, excavation, obstacle or other impediment that has been installed, erected, constructed, located or placed in the public right-of-way that creates a potential safety hazard for motorists, bicyclists or pedestrians using the road; or that impedes, hinders or interferes with the free and safe passage or parking of vehicles using the road; or that interferes with or impedes storm water drainage or causes soil erosion; or that renders snow removal and roadway maintenance more difficult and is not an original feature of the land. "Man-Made Obstruction" does not include utility structures and installations located pursuant to permit or approval, nor does it include signs, traffic control devices, structures, or other installations located in the public road right-of-way by public authorities or their agents and contractors. For purposes of this Ordinance a "Man-Made Obstruction" shall include any violation of Minnesota Statute §160.2715 or other relevant Minnesota State Statutes.
- (b) "Public Road Right-of-Way" means the area of land reserved by law, public ownership, easement, dedication or public use for the operation and maintenance of a public road under the Township's road jurisdiction, including the traveled portion of the road, shoulders and the remaining area on both sides of the road extending to the outer boundaries of the right-of-way.

### **Section 4. Man-made Obstructions Prohibited in Public Road Rights-of Way.**

In addition to the prohibitions contained in Minnesota Statute §160.2715 and other relevant state statutes, no person shall place or cause to be placed a man-made obstruction within any Township road right-of-way without a permit or approval from the Town Board. This prohibition includes, but is not limited to, the following:

- (a) Rocks, boulders or other man-made obstructions shall not exceed four (4) inches in total height, and shall not be located closer than three (3) feet from the edge of the road pavement;
- (b) Placement of fill or creation of a berm or wall;
- (c) Planting, cultivation or growing of plants, trees, bushes, gardens, landscaping or crops, except for grass, flowers and plants landscaped and maintained so that they do not create a potential safety hazard and do not reduce corner clearances or diminish visibility of or by road users;
- (d) Placing fences, posts, barriers, ditches, signs, advertising devices or other decorative or preventative materials;
- (e) Excavation or alteration of ditches, grade, contour, embankment or road drainage; or
- (f) Mailboxes may be located within the Township road right-of-way in accordance with U.S. Postal Service regulations provided the mailbox conforms to the requirements contained in Minn. Stat. § 169.072; Minn. R. Chap. 8818 and any other relevant state statutes and rules. All other mailboxes are prohibited without a permit or approval from the Town Board regardless of the date the mailbox was installed.

### **Section 5. Violation.**

- (a) In the event of a violation of this ordinance, the Town Board may institute appropriate actions or proceedings, including requesting injunctive relief to prevent, restrain, correct or abate such violations. Should the Township determine to correct or abate such violations as provided in Section 6, the property owner shall be invoiced for all of the Township's costs which shall be paid within 30 days of the date of the invoice, should the property owner not reimburse the Township within said time, the Township shall be authorized to certify said unreimbursed costs to the County Auditor for payment with the owner's property taxes pursuant to Minn. Stat. § 366.012 or other relevant statute.
- (b) Further, each day of violation of this ordinance shall be deemed a misdemeanor for which the Township may bring prosecution. In the event of a successful prosecution, then the prosecution costs may be added to any fines or penalties imposed by the Court, all as provided by statute. The maximum penalty shall be the same as the maximum penalty provided by Minnesota law for misdemeanor violations.
- (c) In the discretion of the Township, the matter may also be forwarded to the Chisago County Sheriff's Department, so that a citation can be issued to violator based on Minnesota Statute § 160.2715 or other relevant statute.

**Section 6. Removal of Man-made Obstructions.**

- (a) A man-made obstruction in the public road right-of-way, which the Township in its sole discretion determines to be an immediate safety hazard, may, without notice or liability for damages, be abated or removed by the Township.
- (b) A man-made obstruction in the public road right-of-way which the Township does not determine to be an immediate safety hazard may be abated or removed by the Township without liability for damages after: (i) written notice of violation is served on the person responsible for the obstruction notifying that person of the obstruction, the corrective action required, and that the Township may abate or remove the obstruction at the person's expense if the person does not do so within the time specified in the notice; and (ii) the person responsible for the obstruction fails to abate or remove the obstruction within the time specified in the notice.
- (c) Upon abatement or removal of a man-made obstruction by the Township, the Township may bill the Township's actual cost of abatement or removal, plus cost of administration, to the person responsible for the obstruction. The billed amount, if not paid within thirty (30) days, shall be added to the property tax roll and shall constitute a lien against the responsible person's property which shall be collected and enforced in the same manner as general property taxes pursuant to Minnesota Statute § 366.012 or any other relevant statute. This cost recovery shall be in addition to any penalty or legal or equitable remedy the Township may seek or receive for the violation of this Ordinance.

**Section 7. Abutting Property Owner.**

For purposes of this Ordinance, the owner or occupant of the property abutting the public road right-of-way, according to the property tax roll, is presumed to be responsible for any man-made obstructions in the abutting public road right-of-way unless the evidence or circumstances indicate a different responsible party.

**Section 8. Separability.**

It is hereby declared to be the intention that the several provisions of this ordinance are separable in accordance with the following: If any court of competent jurisdiction shall adjudge any provision of

this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included in said judgment.

**Section 9. Repealer.**

All regulatory provisions contained in other Township ordinances, which conflict with the provisions of this Ordinance, are hereby repealed.

**Section 10. Effective date.**

This ordinance shall be in full force and effect from and after its passage and publication.

Adopted by the Town Board of Sunrise Township this 20th day of April, 2017.

**SUNRISE TOWNSHIP  
CHISAGO COUNTY  
STATE OF MINNESOTA**

**ORDINANCE NO. 2017/04/20-7**

**RIGHT-OF-WAY MANAGEMENT ORDINANCE**

The Town Board for the Town of Sunrise, Chisago County, Minnesota, hereby ordains:

**Sec. 1.01. Findings, Purpose, and Intent.**

To provide for the health, safety and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-way, the township strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances.

Accordingly, the township hereby enacts this ordinance relating to right-of-way permits and administration. This ordinance imposes reasonable regulation on the placement and maintenance of facilities and equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this ordinance, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work. Finally, this ordinance provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

This ordinance shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in Minnesota Statutes Sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act") and the other laws governing applicable rights of the township and users of the right-of-way. This ordinance shall also be interpreted consistent with Minnesota Rules 7819.0050 – 7819.9950 where possible. To the extent any provision of this ordinance cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This ordinance shall not be interpreted to limit the regulatory and police powers

of the township to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

### **Sec. 1.02. Election to Manage the Public Rights-of-Way**

Pursuant to the authority granted to the township under state and federal statutory, administrative and common law, the township hereby elects, pursuant Minn. Stat. 237.163 subd. 2(b), to manage rights-of-way within its jurisdiction.

### **Sec. 1.03. Definitions.**

The following definitions apply in this ordinance. References hereafter to “sections” are, unless otherwise specified, references to sections in this ordinance. Defined terms remain defined terms, whether or not capitalized.

“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.

“Applicant” means any person requesting permission to excavate or obstruct a right-of-way.

“Township” means the township of Sunrise, Chisago County, Minnesota. For purposes of section 1.28, “township” means its elected officials, officers, employees and agents.

“Commission” means the State Public Utilities Commission.

“Congested Right-of-Way” means a crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with Minnesota Statutes, section 216D.04. subdivision 3, over a continuous length in excess of 500 feet.

“Construction Performance Bond” means any of the following forms of security provided at permittee’s option:

- A. Individual project bond;
- B. Cash deposit;
- C. Security of a form listed or approved under Minn. Stat. Sec. 15.73, subd. 3;
- D. Letter of Credit, in a form acceptable to the township;
- E. Self-insurance, in a form acceptable to the township;
- F. A blanket bond for projects within the township, or other form of construction bond, for a time specified and in a form acceptable to the township.

“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.

“Degradation Cost” subject to Minnesota Rules 7819.1100 means the cost to achieve a level of restoration, as determined by the township at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules parts 7819.9900 to 7819.9950.

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

“Department” means the Sunrise Town Board as currently they have no department of public works for the Township.

“Department Inspector” means any person authorized by the township to carry out inspections related to the provisions of this ordinance.

“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.

“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.

“Equipment” means any tangible asset used to install, repair, or maintain facilities in any right-of-way.

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

“Excavation permit” means the permit which, pursuant to this ordinance, must be obtained before a person may excavate in a right-of-way. An Excavation permit allows the holder to excavate that part of the right-of-way described in such permit.

“Excavation permit fee” means money paid to the township by an applicant to cover the costs as provided in Section 1.12.

“Facility” or “Facilities” means any tangible asset in the right-of-way required to provide Utility Service.

“High Density Corridor” means a designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

“Hole” means an excavation in the pavement or a disruption in the surface of the pavement, with the excavation having a length less than the width of the pavement.

“Local Representative” means a local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this ordinance.

“Management Costs” means the actual costs the township incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, Chapter 123; Minnesota Statutes Sections 237.162 or 237.163; or any ordinance enacted under those sections, or the township fees and costs related to appeals taken pursuant to Section 1.30 of this ordinance.

“Obstruct” means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

“Obstruction Permit” means the permit which, pursuant to this ordinance, must be obtained before a person or company 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.

“Obstruction Permit Fee” means money paid to the township by a permittee to cover the costs as provided in Section 1.12

“Patch” or “Patching” means a method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the township’s five-year project plan.

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

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

“Permittee” means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the township under this ordinance.

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

“Registrant” means any person who (1) has or seeks to have its equipment or facilities located in any right-of-way, or (2) in any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.

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

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

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

“Right-of-Way Permit” means either the excavation permit or the obstruction permit, or both, depending on the context, required by this ordinance.

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

“Service” or “Utility Service” includes (1) those services provided by a public utility as defined in Minn. Stat. 216B.02, subs. 4 and 6; (2) services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications systems as defined in Minn. Stat. Chapter. 238; (4) natural gas or electric energy or telecommunications services provided by the township; (5) services provided by a cooperative electric association organized under Minn. Stat., Chapter 308A; and (6) water, and sewer, including service laterals, steam, cooling or heating services.

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

“Supplementary Application” means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

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

“Trench” means an excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

“Telecommunication right-of-way user” means a person owning or controlling a facility in the right-of-way, or seeking to own or control a Facility in the right-of-way, that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this ordinance, a cable communication system defined and regulated under Minn. Stat. Chap. 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in Minn. Stat. Sec. 216B.02, a municipality, a municipal gas or power agency organized under Minn. Stat. Chaps. 453 and 453A, or a cooperative electric association



organized under Minn. Stat. Chap. 308A, are not telecommunications right-of-way users for purposes of this ordinance.

#### **Sec. 1.04 Administration.**

The Town Board is responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The Town Board may delegate any or all of the duties hereunder.

#### **Sec. 1.05. Reserved for Future Use.**

#### **Sec. 1.06. Registration and Right-of-Way Occupancy.**

**Subd. 1. *Registration.*** Each person who occupies or uses, or seeks to occupy or use, the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the township. Registration will consist of providing application information and paying a registration fee.

**Subd. 2. *Registration Prior to Work.*** No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right-of-way without first being registered with the township.

**Subd. 3. *Exceptions.*** Nothing herein shall be construed to repeal or amend the provisions of a township ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this ordinance. However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. Chap. 216D, Gopher One Call Law.

#### **Sec. 1.07. Registration Information.**

**Subd. 1. *Information Required.*** The information provided to the township at the time of registration shall include, but not be limited to:

- (a) Each registrant's name, Gopher One-Call registration certificate number, address and email address, if applicable, and telephone and facsimile numbers.
- (b) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.
- (c) A certificate of insurance or self-insurance:

- (1) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the State of Minnesota, or a form of self-insurance acceptable to the township;
  - (2) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and (ii) placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;
  - (3) Naming the township as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;
  - (4) Requiring that the township be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term; and
  - (5) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the township in amounts sufficient to protect the township and the public and to carry out the purposes and policies of this ordinance.
- (d) The township may require a copy of the actual insurance policies.
- (e) If the person is a corporation, a copy of the certificate is required to be filed under Minn. Stat. 300.06 as recorded and certified to by the Secretary of State.
- (f) A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from said commission or other state or federal agency.

**Subd. 2. Notice of Changes.** The registrant shall keep all of the information listed above current at all times by providing to the township information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change.

**Sec. 1.08. Reserved for Future Use.**

**Sec. 1.09. Permit Requirement.**

**Subd. 1. Permit Required.** Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the township to do so.

- (a) **Excavation Permit.** An excavation permit is required by a registrant to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.
- (b) **Obstruction Permit.** An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

**Subd. 2. Permit Extensions.** No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless (i) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (ii) a new permit or permit extension is granted.

**Subd. 3. Delay Penalty.** In accordance with Minnesota Rule 7819.1000 subp. 3 and notwithstanding subd. 2 of this Section, the township shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by township board resolution.

**Subd. 4. Permit Display.** Permits issued under this ordinance shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the township.

#### **Sec. 1.10. Permit Applications.**

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

- (a) Registration with the township pursuant to this ordinance;
- (b) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.
- (c) Payment of money due the township for:
  - (1) permit fees, estimated restoration costs and other management costs;
  - (2) prior obstructions or excavations;
  - (3) any undisputed loss, damage, or expense suffered by the township because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the township;
  - (4) franchise fees or other charges, if applicable.

- (d) Payment of disputed amounts due the township by posting security or depositing in an escrow account an amount equal to at least 110% of the amount owing.
- (e) Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the township deems the existing construction performance bond inadequate under applicable standards.

**Sec. 1.11. Issuance of Permit; Conditions.**

**Subd. 1. *Permit Issuance.*** If the applicant has satisfied the requirements of this ordinance, the township shall issue a permit.

**Subd. 2. *Conditions.*** The township may impose reasonable conditions upon the issuance of the permit and the performance of the applicant there under to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use.

**Sec. 1.12. Permit Fees.**

**Subd. 1. *Excavation Permit Fee.*** The township shall establish an Excavation permit fee in an amount sufficient to recover the following costs:

- (a) the township management costs;
- (b) degradation costs, if applicable.

**Subd. 2. *Obstruction Permit Fee.*** The township shall establish the obstruction permit fee on a case by case basis and shall be in an amount sufficient to recover the township management costs.

**Subd. 3. *Payment of Permit Fees.*** No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The permit fees will be due at the time of application.

**Subd. 4. *Non Refundable.*** Permit fees that were paid for a permit that the township has revoked for a breach as stated in Section 1.22 are not refundable.

**Subd. 5. *Application to Franchises.*** Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

**Sec. 1.13. Right-of-Way Patching and Restoration.**

**Subd. 1. *Timing.*** The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under Section 1.16.

**Subd. 2. Patch and Restoration.** Permittee shall patch its own work. The township may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

- (a) **Township Restoration.** If the township restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the township, within thirty (30) days of billing, all costs associated with correcting the defective work.
- (b) **Permittee Restoration.** If the permittee restores the right-of-way itself, it shall, at the time of application for an excavation permit, post a construction performance bond in accordance with the provisions of Minnesota Rule 7819.3000.
- (c) **Degradation Fee in Lieu of Restoration.** In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee if approved by the Town Board. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

**Subd. 3. Standards.** The permittee shall perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the township and shall comply with Minnesota Rule 7819.1100.

**Subd. 4. Duty to Correct Defects.** The permittee shall correct defects in patching or restoration performed by permittee or its agents. The permittee upon notification from the township, shall correct all restoration work to the extent necessary, using the method required by the township. Said work shall be completed within five (5) calendar days of the receipt of the notice from the township, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under Section 1.16.

**Subd. 5. Failure to Restore.** If the permittee fails to restore the right-of-way in the manner and to the condition required by the township, or fails to satisfactorily and timely complete all restoration required by the township, the township at its option may do such work. In that event the permittee shall pay to the township, within thirty (30) days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the township may exercise its rights under the construction performance bond.

#### **Sec. 1.14. Joint Applications.**

**Subd. 1. Joint application.** Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

**Subd. 2. Shared fees.** Registrants who apply for permits for the same obstruction or excavation, which the township does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

**Subd. 3. With township projects.** Registrants who join in a scheduled obstruction or excavation performed by the township, whether or not it is a joint application by two or more registrants or a

single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit would still be required.

### **Sec. 1.15. Supplementary Applications.**

**Subd. 1. *Limitation on Area.*** A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (i) make application for a permit extension and pay any additional fees required thereby, and (ii) be granted a new permit or permit extension.

**Subd. 2. *Limitation on Dates.*** A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

### **Sec. 1.16. Other Obligations.**

**Subd. 1. *Compliance With Other Laws.*** Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the township or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minnesota Statutes, Section 216D.01-.09 (Gopher One Call Excavation Notice System) and Minnesota Rules Chapter 7560. A permittee shall perform all work in conformance with all applicable 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.

**Subd. 2. *Prohibited Work.*** Except in an emergency, and with the approval of the township, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

**Subd. 3. *Interference with Right-of-Way.*** A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with township parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

**Subd. 4. *Trenchless Excavation.*** As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in Minnesota Statutes, Chapter 216D and Minnesota Rules Chapter 7560, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the Town Board.

### **Sec. 1.17. Denial of Permit.**

The township may deny a permit for failure to meet the requirements and conditions of this ordinance or if the township determines that the denial is necessary to protect health, safety, and welfare or when necessary to protect the right-of-way and its current use.

### **Sec. 1.18. Installation Requirements.**

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent with the Minnesota Statutes, Sections 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minnesota Rules Chapter 7560 and these ordinances. Service lateral installation is further subject to those requirements and conditions set forth by the township in the applicable permits and/or agreements referenced in Section 1.23 subd. 2 of this ordinance.

### **Sec. 1.19. Inspection.**

**Subd. 1. *Notice of Completion.*** When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minnesota Rule 7819.1300.

**Subd. 2. *Site Inspection.*** Permittee shall make the work-site available to the township and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

### **Subd 3. *Authority of Town Board.***

- (a) At the time of inspection, the Town Board or their designee may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.
- (b) The Town Board or their designee may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the Town Board that the violation has been corrected. If such proof has not been presented within the required time, the Town Board may revoke the permit pursuant to Sec. 1.22.

### **Sec. 1.20. Work Done Without a Permit.**

**Subd. 1. *Emergency Situations.*** Each registrant shall immediately notify the Town Board of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two (2) business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this ordinance for the actions it took in response to the emergency.

If the township becomes aware of an emergency regarding a registrant's facilities, the township will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the township may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

**Subd. 2. *Non-Emergency Situations.*** Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by the township code, deposit with the township the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this ordinance.

### **Sec. 1.21. Supplementary Notification.**

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the township of the accurate information as soon as this information is known.

### **Sec. 1.22. Revocation of Permits.**

Subd. 1. ***Substantial Breach.*** The township reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

- (a) The violation of any material provision of the right-of-way permit;
- (b) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the township or its citizens;
- (c) Any material misrepresentation of fact in the application for a right-of-way permit;
- (d) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or
- (e) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Sec. 1.19.

**Subd. 2. *Written Notice of Breach.*** If the township determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the township shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the township, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.



**Subd. 3. *Response to Notice of Breach.*** Within twenty-four (24) hours of receiving notification of the breach, permittee shall provide the township with a plan, acceptable to the township, that will cure the breach. Permittee's failure to so contact the township, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

**Subd. 4. *Reimbursement of township costs.*** If a permit is revoked, the permittee shall also reimburse the township for the township's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

### **Sec. 1.23. Mapping Data.**

**Subd. 1. *Information Required.*** Each registrant and permittee shall provide mapping information required by the township in accordance with Minnesota Rules 7819.4000 and 7819.4100. Within ninety (90) days following completion of any work pursuant to a permit, the permittee shall provide the Town Board accurate maps and drawings certifying the "as-built" location of all equipment installed, owned and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the township's electronic mapping system, when practical or as a condition imposed by the Town Board. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit holder's registration.

**Subd. 2. *Service Laterals.*** All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minnesota Rules 7560.0150 subpart 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals, and the service lateral vertical locations in those cases where the Town Board reasonably requires it. Permittees or their subcontractors shall submit to the Town Board evidence satisfactory to the Town Board of the installed service lateral locations. Compliance with this subdivision 2 and with applicable Gopher State One Call law and Minnesota Rules governing service laterals shall be a condition of any township approval necessary for 1) payments to contractors working on a public improvement project including those under Minnesota Statutes, Chapter 429, and 2) township approval of performance under development agreements, or other subdivision or site plan approval under Minnesota Statutes, Chapter 462. The Town Board shall reasonably determine the appropriate method of providing such information to the township. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or for future permits to the offending permittee or its subcontractors.

### **Sec. 1.24. Location and Relocation of Facilities.**

**Subd. 1.** Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minnesota Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

**Subd. 2. *Corridors.*** The township may assign a specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the township expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the township involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the township shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the township for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

**Subd. 3. Nuisance.** One year after the passage of this ordinance, any facilities found in a right-of-way that have not been registered shall be deemed to be a nuisance. The township may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.

**Subd. 4. Limitation of Space.** To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the township shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the township shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future township plans for public improvements and development projects which have been determined to be in the public interest.

#### **Sec. 1.25 Pre-excavation Facilities Location.**

In addition to complying with the requirements of Minn. Stat. 216D.01-.09 (“One Call Excavation Notice System”) before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement of all said facilities. Any registrant whose facilities are less than twenty (20) inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

#### **Sec. 1.26. Damage to Other Facilities.**

When the township does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the township shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the township's response to an emergency occasioned by that registrant's facilities.

#### **Sec. 1.27. Right-of-Way Vacation.**

**Reservation of right.** If the township vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.

#### **Sec. 1.28. Indemnification and Liability**

By registering with the township, or by accepting a permit under this ordinance, a registrant or permittee agrees to defend and indemnify the township in accordance with the provisions of Minnesota Rule 7819.1250.

### **Sec. 1.29. Abandoned and Unusable Facilities.**

**Subd.1. *Discontinued Operations.*** A registrant who has determined to discontinue all or a portion of its operations in the township must provide information satisfactory to the township that the registrant's obligations for its facilities in the right-of-way under this ordinance have been lawfully assumed by another registrant.

**Subd. 2. *Removal.*** Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the township.

### **Sec. 1.30. Appeal.**

A right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had a permit revoked; (4) believes that the fees imposed are not in conformity with Minn. Stat. § 237.163, Subd. 6; or (5) disputes a determination of the Town Board regarding Section 1.23 subd. 2 of this ordinance may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the township board. The township board shall act on a timely written request at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the township board affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

### **Sec. 1.31. Severability.**

If any portion of this ordinance is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. Nothing in this ordinance precludes the township from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

This ordinance shall be effective upon passage and publication in the official Township newspapers.

Adopted by the Town Board of Sunrise Township this 20th day of April 2017.

**Spring / Fall Clean-up:** No action taken.

**Dust Control:** Northern Salt submitted a verbal bid to Lynn Wolleat of \$0.87 instead of \$0.89. Envirotech came in at \$0.92. Clerk Kowalke to e-mail Theresa to get quote to be in writing. Motion by Eric Leivian, second by Deborah Graleke-Kelleher to accept Northern Salt's bid of \$0.87. Motion carried.

**Donation Requests:** Motion by Jeske Noordergraaf, second by Eric Leivian to distribute the donation money as follows:

Sunrise Cemetery Association.....	\$500.00
Chisago County Fair:.....	\$400.00
Chisago County Sr. Center .....	\$500.00
Family Pathways.....	\$1,500.00
Seven County Senior Federation .....	\$100.00

Motion Carried.

**Bulletin Board / Internet:** Deborah Galeske-Kelleher would like to see an internet community board on the internet. Supervisor Eric Leivian is willing to set up a facebook community board for Sunrise.. Motion by Deborah Galeske-Kelleher, second by Eric Leivian to go ahead with facebook page. Motion carried with one board member abstained from voting.

**Responsibility Divided Among Board Members:** Clerk Kowalke to designate responsibilities as necessary.

**Citizens Forum:** Bill Campbell lives just south of Sunrise Township’s new salt shed and was wondering if the township is interested in selling any property by the new salt shed. The Town Board informed Mr. Campbell that Sunrise Township is planning a building a town hall there in the future.

**Gravel – Kip Rydberg (Tiller Pit):** Sunrise Township will work with Kip Rydberg to place gravel pile on Township roads.

**Johnson Gravel Pit:** Mrs. Johnson would like legal documentation that states Sunrise Township will pay this year for gravel due to working with Kip Rydberg to obtain his gravel pile and not get the Johnson Gravel pile until 2020. Carl Peter “Pete” Johnson will talk with Attorney Robert Ruppe to draw up documentation. Addendum to current contract to pay this year for gravel, taking in 2020.

**Sign Program:** Joe Triplet said there are 3 speed reduction signs that possibly may not be needed and advisory signs. We use Chansels for our street marker signs.

**Driveway Permits transferring to Chisago County:** Chisago County will need a copy of Sunrise Township’s new driveway ordinance. County Charge will \$25 for each driveway permit and return \$75.00. Motion by Jeske, second by Gerald Bjork to transfer driveway permits to Chisago County. Motion carried.

**Old County Road 70 (Now Oriole Avenue):** Chisago County Engineer, Joe Triplett will be contacting Sunrise with an agreement.

**Board of Equalization:** Board of Equalization will be held on Wed., April 26 at 9:30 a.m.

**Ziegler (Vincent Polkus – not present):** Eric to fill in for Ziegler. Current buy-back was projected for 3000 hours, Sunrise Township is currently at 1500. Can buy-back and extended warranty. Cost would go up 25% more per hour. County will offer \$170,000 and Ziegler would pay \$130,000.

**Maintenance Update:** Sign in front of ball field is rotting away. Wade Olson is looking for a new one. Gerald Bjork to contact sign company. Quote for sweeper on May Agenda.

Motion by Eric Leivian, second by Gerald Bjork, to adjourn at 9:07 p.m. Motion carried.

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Clerk Wendy Kowalke

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Carl Peter "Pete" Johnson, Chair