

ORDINANCE NO. _____

**TOWNSHIP OF CRYSTAL FALLS
WELLHEAD PROTECTION AREA ORDINANCE**

SECTION 1.1

TITLE

An Ordinance to establish Wellhead Protection Area Regulations for the **TOWNSHIP OF CRYSTAL FALLS**, County of Iron, State of Michigan, (hereinafter "**Township**") including regulations covering purchasers of Crystal Falls Township water that include the City of Crystal Falls, Hematite Township and Mastodon Township users, to provide for the administration, enforcement and amendment of such regulations, to prescribe penalties for the violation of such regulations, and to provide for conflicts with other Ordinances or regulations, all in accordance with the provisions of Michigan Act 110 of 2006, as amended, being MCL 125.3101, et seq.

SECTION 1.2

ENACTING CLAUSE

The **Township** Ordains as follows:

SECTION 1.3

SHORT TITLE

This Ordinance shall be known and may be cited as the "Township of Crystal Falls Wellhead Protection Area Ordinance".

SECTION 2.1

PURPOSE

All Wellhead Protection Areas shall be delineated into two districts: Operation Districts (**OD**) and Protection Districts (**PD**). An Operation District (**OD**) shall include the hereinafter designated geographic area that immediately surrounds an existing or proposed municipal well water production facilities. A Protection District (**PD**) shall include the hereinafter designed area which includes the Operation District (**OD**) and that surrounding area of the aquifer that lies within the ten (10) year time of travel capture area from the existing or proposed municipal well water production facilities as hereinafter designated.

These districts are designed to safeguard the public health, safety, and welfare of citizens and institutions that are customers of the **Township** by regulating the land use and the storage, handling, use and/or production of Regulated Substances within the geographic area described as the land area adjacent to the existing and proposed municipal water well fields within

the **Township**. Over 80 percent of the residents of the **Township**, City of Crystal Falls and limited users of Townships of Hematite and Mastodon are served by municipal water supply wells which draw upon stratified drift aquifers that lie within the **Township** boundaries and the other 20 percent rely on private wells.

In recognition of the fact that these aquifers are vulnerable to contamination from land-use activities, and that protection of **Township** groundwater resources is vital to ensure an adequate supply of safe, potable water, this Ordinance establishes Operation Districts (OD) and Protection Districts (PD) and prescribed land-use regulations within such Districts.

- (A) Operation Districts (OD) and Protection Districts (PD) are mapped on property owned by the **Township** at the location of any presently township-owned and operated or designated future or proposed public water supply well, or other related water facility.
- (B) The Operation Districts (OD) and the Protection Districts (PD) presently contain three well systems known as the Lind, Kuivala and North Wells. These wells are mapped on land within Operation Districts (OD), which includes the existing and proposed municipal water well fields within the **Township**.
 - (1) Two well systems are located approximately 2 miles from Highway U.S. 2. The Lind Well system is located near the Lind Road in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 23, Township 43 North, Range 33 West. The Kuivala Well system is located near the Kuivala Road in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 14, Township 43 North, Range 33 West. The Protection Districts (PD) for these well systems cover approximately 1008 acres and encompasses New Bristol, Lind, Williams, Kuivala Roads extending past Anderson Lake.
 - (2) The North Well is located approximately .4 miles from Old Highway 141. The North Well system is located near the Townline Road in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$, Section 16, Township 44 North, Range 33 West. The Protection District (PD) covers approximately 275 acres and encompasses Warner Mine, Townline and Old Highway 141 Roads.
- (C) This Ordinance applies to all land uses and activities located or proposed within the area delineated as within Operation Districts (OD) and Protection Districts (PD) in the **Township** as illustrated on Exhibit A. A large scale map of Exhibit A shall be available for inspection at the **Township**.

- (D) Notification of the geographic scope of Operation Districts (**OD**) and Protection Districts (**PD**) shall be recorded at the Iron County, Michigan Register of Deeds Office once the Wellhead Protection Area Ordinance becomes effective.
- (E) The **Township** Zoning Administrator is hereby appointed the Wellhead Protection Area Administrator to review development plans within the Operation Districts (**OD**), the Protection Districts (**PD**), and other related matters that may arise in the administration of Wellhead Protection Area Ordinance.
- (F) The **Township** Zoning Administrator shall interpret and define any ambiguities concerning the boundary limits of the Operation Districts (**OD**) and Protection Districts (**PD**) as such limits are particularly set forth in Exhibit A.
- (G) Decisions of the **Township** Zoning Administrator under this Ordinance may be appealed in writing within 21 days of such determination to the **Township** Board. The decision of the **Township** Board shall be final.

**SECTION 3
DEFINITIONS**

1. **AQUIFER:** A geologic formation, group of formations or part of formation capable of storing and yielding a significant amount of ground water to wells or springs.
2. **BEST MANAGEMENT PRACTICES:** Measures, either managerial or structural, to prevent or reduce pollution inputs to soil, surface water or groundwater.
3. **CONTINGENCY PLAN:** A detailed plan for control, recontainment, recovery, and cleanup of hazardous materials released during fires, equipment failures, leaks, and spills.
4. **DEVELOPMENT:** The construction, reconstruction, alteration of surface or structure or change of land use or intensity of use.
5. **ENVIRONMENTAL CONTAMINATION:** The presence or release of a hazardous substance or other substance, in a quantity, which is or may become injurious to the environment, or to the public health, safety, or welfare.
6. **EXISTING FACILITY OR EXISTING STORAGE UNIT:** A facility or regulated substance storage unit in operations for which construction commences on or before the effective date of this Ordinance. Construction of a facility or regulated substance storage unit has commenced if:

- a. The owners or operator has obtained the federal, state and local approvals or permits necessary to begin physical construction; and either.
 - b. A continuous on-site, physical construction program has begun; or the owner or operator has entered into contractual obligations for physical construction of the facility or regulated substance storage unit which cannot be modified without substantial loss.
7. FACILITY: Any building, structure, installation equipment, machinery or property from which there may be a discharge of hazardous substances.
 8. GROUNDWATER: The water contained within the earth's surface that has penetrated from precipitation and from infiltration by streams, ponds and lakes.
 9. GROUNDWATER CONTAMINATION: Presence of any substance, designated by the United States Environmental Protection Agency or the State of Michigan as a primary or secondary water quality contaminant, in excess of the maximum allowable containment level.
 10. HAZARDOUS SUBSTANCES: A chemical or other material which is or may become injurious to the public health, safety or welfare or to the environment. The term "hazardous substance" includes, but it not limited to, any of the following:
 - A. Hazardous Substances as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC 9601, *et seq.*
 - B. Hazardous Waste as defined in Part 111 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended, being MCL 324.10, *et seq.*
 - C. Regulated Substances, as defined in Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended, being MCL 324.101, *et seq.*
 - D. Hazardous Substance as defined in Part 201 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended, being MCL 324.101, *et seq.*
 - E. Used oil.
 - F. Animal water or byproducts or carcasses.
 11. MUNICIPAL WATER: Potable water furnished by the **Township**.

12. NON-CONFORMING USE: A use which lawfully occupied a building or land at the effective date of this Ordinance, or amendments thereof, and that does not conform to the use regulations to the Zoning District in which it is located.
13. POLLUTANT TRAVEL TIME: The time required by pollutants from one point to another.
14. POTABLE WATER: Water that is satisfactory for drinking, culinary and domestic purposes, meeting current state and federal drinking water standards.
15. PRIMARY CONTAINMENT FACILITY: A tank, pit, container, pipe, or vessel of first containment of a hazardous substance.
16. SECONDARY CONTAINMENT FACILITY: A second tank, catchment pit or vessel that limits and contains liquid or hazardous substance leaking or leaching from a primary containment area. Containment systems shall be construed of materials of sufficient thickness, density and composition to prevent future environmental contamination of land, ground water or surface water.
17. TEN-YEAR TIME OF TRAVEL DISTANCE: The distance that groundwater will travel in ten years. This distance is a function of the permeability and slope of the aquifer.
18. TIME OF TRAVEL BOUNDARY: The boundary beyond which groundwater will take more than a set period of time (i.e. 200 days) to travel to a given point (i.e. a pumping well).
19. UNDERGROUND STORAGE TANK SYSTEM: A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain an accumulation of hazardous substances, as defined in Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended, being MCL 324.101, et seq.
20. USED OIL: Any oil which had, been (a) refined from crude oil, (b) used, and (c) as a result of such use contaminated by physical or chemical impurities. This definition shall not include oil in an engine and drive train of a licensed, insured and presently operational motor vehicle that is currently capable of lawful operation upon all highways located in Michigan.
21. WATER SUPPLY/TREATMENT FACILITY: means an establishment engaged in operating a water treatment plant or operating a water supply system. The water system may include pumping stations, aqueducts of distribution mains.

22. WELL: An opening in the surface of the earth for the purpose of obtaining groundwater, monitoring the quality and quantity of groundwater, obtaining geologic information on aquifers, recharging aquifers, purging aquifers, utilizing the geothermal properties of the earth formations or removing groundwater for any purpose. Wells include but are not limited to:
- a. A water supply well used to obtain water for drinking or domestic purposes.
 - b. A test well/monitoring well used to obtain information on groundwater quality, quantity or aquifer characteristics for the purpose of designing or operating a water supply system.
 - c. A recharge well used to discharge water into an aquifer.
 - d. A heat exchange well used for the purpose of utilizing the geothermal properties of the earth formations for heating or air conditioning. This includes both supply and return wells.
 - e. An industrial well used to supply water for nonpotable uses.
 - f. An irrigation well used to provide water for plants, livestock or other agricultural processes.
23. WELL FIELD: A tract of land that contains a number of wells that supply municipal water.
24. WELLHEAD PROTECTION AREAS: The area around and up gradient from the public water supply wells delineated by the ten-year travel time contour capture boundary.
25. WELLHEAD OPERATION ZONE: Operation Districts (OD) for existing and proposed municipal well water product facilities as outlined on Exhibit A.

SECTION 4 PERMITTED USES & SPECIAL LAND USES

The **Township** Zoning Ordinance No. 26 was adopted November 12, 2008, and effective January 2, 2009, and sets forth the permitted uses and special land uses at Chapter 8, Section 802 and 803, Chapter 9, Section 9.02 and 9.03.

- A. Schedule of Permitted and Special Land Uses in Protection Districts (PD).

1. Single-family dwellings P
 - (a) home occupations are regulated by Ordinance No. 26, Section 3.17 P
2. Two to four family dwellings, provided the site is served by public water and sewer P
3. Farms as regulated in Ordinance No. 26, Section 8.02 P
 - (a) commercial greenhouses and nurseries when operated primarily as wholesaling and limited retail sales S
 - (b) commercial kennels S
 - (c) farm market S
 - (d) migrant agricultural labor housing S
 - (e) raising of fur-bearing animals or game birds S
 - (f) stables for horses and similar equines S
4. State licensed residential family care facilities in Ordinance No. 26 Section 8.02 P
 - (a) state licenses residential care facilities; small and large group homes S
5. Family day care homes P
6. Accessory buildings in Ordinance No. 26, Section 3.19 P
7. Recreation/Open Space as regulated by Ordinance No. 26, Section 3.19 S
 - (a) boat and canoe liveries and yards S
 - (b) boat launches, public or private S
 - (c) Bed and breakfast S
 - (d) campgrounds, public or private S

- (e) country clubs and golf courses S
- (f) marinas S
- (g) open space development S
- 8. Other
- (a) airports S
- (b) cemeteries, publicly owned athletic fields, parks, and similar uses
- (c) commercial extraction and processing of topsoil, stone, rock, sand, gravel or other soil or mineral resources shall only be permitted if the applicant for such activities establish that the proposed actions will not negatively affect the ground water S
- (d) communication towers S
- (e) elderly housing S
- (f) place of religious worship S
- (g) sawmill S
- (h) schools: public, parochial, private or charter S
- (i) shooting, rifle and handgun ranges S
- (j) wind energy conversion systems S

Notes to Section 4 Permitted Uses: All uses in the Operations District (OD) and Protection Districts (PD) require advance written approval from the Zoning Administrator.

P=Use permitted by right.

S=Special Land Use required approval from the Planning Commission.

- B. Uses Permitted by Right in Protection Districts (PD). Uses permitted by right within the Protection Districts (PD) shall be those of the underlying district.
- C. Special Land Uses in a Protection District (PD). The Special Land Uses within a Protection District (PD) shall be those of the underlying **Township** zoning district in addition to the Zoning

Ordinance No. 26, Section 19, that applies to each item listed in the permitted uses and identified in the right hand column with an "S".

D. Prohibited Uses.

Purposes: To identify uses and activities. Such prohibited uses and activities remain prohibited under this Wellhead Protection Area Ordinance even if they are allowed by right in the underlying zoning districts.

1. Contaminants can be grouped under the following major categories:

- Inorganic compounds (e.g., nitrogen and phosphorus nutrients, heavy metals, sodium and chloride)

- Viral or bacterial contaminants (e.g., pathogens)

- Organic compounds (e.g., petroleum and hydrocarbon based product, PCBs, pesticides and other volatile and semi-volatile compounds, such as benzene, naphthalene's and phenols)

2. The following specific uses are prohibited:

- A septic system that is not operating in accordance with federal, state and/or local statutes, laws, rules, regulations and/or requirements, including, but not limited to the Dickinson-Iron District Health Department "Superior Environmental Health Code".

- Bulk plants for hazardous materials.

- Permanent storage or disposal of hazardous wastes industrial or municipal sludge or radioactive materials, including solid waste landfills.

- Collection and transfer facilities for hazardous wastes, solid wastes that contain hazardous materials from off-site sources, and radioactive materials.

- Wood preserving operations using formulations of Chrome-Copper-Arsenate (CCC), pentachlorophenol (PENTA) and creosote and related chemicals.

- Battery recycling and reprocessing.

- Retail gas stations and truck stops.

●Agricultural application of halogenated volatile liquid organic pesticides (e.g. ethylene dibromide (EDB) and dibromochloropropane (DBCP), nitrogen, related chemicals and their commercial formulations.

●Processing, reprocessing and storage (and disposal) of PCR containing oils or PCB containing or PCB contaminated items.

●Manufacturing and production of paving, roofing and other construction materials, using asphaltic and petroleum based coating and preserving materials.

●Primary and secondary metal industries that manufacture, produce, smelt or refine ferrous and non-ferrous metals.

●Storage for any period of time of more than 50 gallons of any petroleum and/or hydrocarbon based product unless one of the following exemptions apply:

(a) The storage of not more than 500 gallons of fuel oil solely to be used for onsite heating in a lawfully and approved single tank which is correctly installed and correctly maintained.

(b) The storage of not more than 1500 gallons of propane or liquified petroleum solely to be used for

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onsite heating in a lawful and single tank, which is correctly installed and correctly maintained.

(c) Such material is totally contained within the engine, drive train or control systems of an object propelled or powered by an internal combustion engine.

(d) Manufactures sealed retail containers that do not exceed 250 gallons in total.

3. Use List Non Exhaustive

The uses prohibited by these districts represent the state of present knowledge and most common description of said uses. As other polluting uses are discovered, or other terms of description become necessary, it is the intention to add them to the list of uses prohibited by these districts. To screen for such other uses or terms for uses, no use shall be permitted in these districts without first submitting its building, site and operations plans for Zoning Administrator and Planning Commission review and approval under **Township** Zoning Ordinance No. 26, Sections 16 and 17.

4. Changing Technology

The uses prohibited by these districts are prohibited based upon the combined pollution experience of many individual uses, and the technology generally employed by that class of uses, which technology causes these uses as a class to be groundwater pollution risks. As the technology of identified use class's changes to non-risk materials or methods, upon petition from such a use, and after conferring with professional geological and relevant professional opinions, it is the intention to delete from the prohibited list or allow conditionally, uses which demonstrate convincingly that they no longer pose a pollution hazard.

5. Conditional Uses and Special Uses

Township Zoning Ordinance No. 26 at Chapter 19 requires additional conditions and standards that may apply to Wellhead Protection Areas.

6. Lawfully Existing NonConforming Uses

Lawfully Existing Nonconforming uses may continue but shall not be expanded in any fashion in these Districts after the adoption of this Ordinance. The **Township** shall notify in writing any known owners of a nonconforming use within these

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Districts. The owner once notified by the **Township** shall have 90 days after the receipt of such written notification to describe in writing all such nonconforming uses, identify the exact location of such nonconforming uses and to describe and identify all otherwise unlawful substances then in use or storage within these districts or the continuation of what otherwise would have been a lawfully existing nonconforming use shall be affirmatively waived by the owner. The **Township** is authorized to onsite inspect, verify, audit, sample, measure and test all areas disclosed as lawfully existing nonconforming uses by an owner. In the event a lawfully existing nonconforming use shall post a direct hazard to the public water supply, the **Township** may take any action permitted by law to abate the hazard.

Township Zoning Ordinance No. 26, at Chapter 3, Section 3.25 pertains also to conditions and standards that may apply to Wellhead Protection Areas.

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7. Variances

- (a) **Township** Zoning Ordinance No. 26 at Chapter 20, Section 20.03 (Jurisdiction Powers and Duties) pertains to standards that may apply to Wellhead Protection Areas.
- (b) In addition to the above standards the following prerequisites for granting a variance shall be applied:
 - (1) Variance shall only be issued upon a determination that the variance is the minimum necessary considering the potential threat of contamination of an Operation District (**OD**) and a Protection District (**PD**) and aquifer, to afford relief.
 - (2) Variances shall only be issued upon (a) showing a good and sufficient cause; (b) a determination that failure to grant a variance would result in exceptional hardship to the applicant; and (c) a determination that the granting of a variance will not result in additional threats to the public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
 - (3) An applicant shall be required to provide professional evidence that the variance requested shall not cause or endanger the Wellhead Protection Area.
- (c) Any applicant to whom a variance is granted shall be given written notice that the activity receiving this variance will decrease the travel time for potential contaminants to reach a Protection District (**PD**) well and that any and all liability of a contamination event as a result of this activity receiving the variance is on the variance holder. Furthermore, the **Township**, its officers, appointees, employees and agents are released from any responsibility and liability for any damages and/or contamination events due to activity receiving the variance.
- (d) Variances may be issued by the Zoning Board of Appeals for new development as long as the development is protected by method that minimize the risk of a contamination and creates no additional threats to public safety.

SECTION 4.1
LOT, SETBACK AND HEIGHT REQUIREMENTS

1. Lot Requirements. The minimum lot requirements for permitted, special land use and accessory uses in Protection Districts (**PD**) are specified in **Township** Zoning Ordinance No. 26, Chapter 8, Section 8.04 for R-1 District and Chapter 9, Section 9.04 for R-2 District regulations. Accessory buildings, structures and uses customarily incidental to a Permitted Use/Special Land Use meeting the requirements of Section 3.19 for these districts in which the lot is located except as otherwise regulated by **Township** Zoning Ordinance No. 26, Chapter 19.
2. Setback Requirements. Every permitted use of land and all buildings and structures shall be located on a lot in a manner that maintains the required front, side and rear setbacks set forth in **Township** Zoning Ordinances No. 26, Chapter 8, Section 8.04, Chapter 9, Section 9.04 and Chapter 3, Section 3.19, measured from the appropriate lot line, except as otherwise regulated in Zoning Ordinance No. 26, Section 19, for Special Land Uses. The area within each setback shall remain unobstructed by structures except as otherwise permitted in this Code.
3. Height Regulation. In Operation Districts (**OD**) and Protection Districts (**PD**), the maximum height shall be 2½ stories or 35 feet, whichever is higher, except that Municipal Water Department structures and buildings shall have no maximum height.

SECTION 4.2
GROUNDWATER PROTECTION STANDARDS
IN THE OPERATION DISTRICTS

In Operation Districts (**OD**), all uses of land, structures and buildings shall comply with the standards set forth below:

- A. Use and storage of Regulated Substances in conjunction with municipal water works department activities shall not be restricted by this section.
- B. Except as provided in **Township** Zoning Ordinance No. 26 sub-section 4.03(A), the use of Regulated Substances in conjunction with permitted and special land uses in these districts shall be limited so that the aggregate of Regulated Substances in use may not exceed twenty (20) gallons or one hundred sixty (160) pounds at any time.
- C. A limited exclusion from the provision of sub-section 4.03(B) is authorized for non-routine maintenance or repair of property or equipment. The use of Regulated Substances under this exclusion shall not exceed and aggregate of fifty (50) gallons or four hundred (400) pounds at any time.

- D. A limited exclusion from the provisions of sub-section 4.03(B) is authorized for Regulated Substances which are cleaning agents, provided, however, such cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public, and provided the aggregate inventory of such cleaning agents shall not exceed two hundred (200) gallons or one thousand six hundred (1,600) pounds at any time. In no case may Regulated Substances claimed under this exclusion include chlorinated solvents.
- E. The Public Works Supervisor shall determine the intensity of each use within these districts utilizing the Total Maximum Daily Inventory and the Facility Hazard Potential Rating in a report provided to the Zoning Administrator.

No use shall handle:

- (1) an amount of Regulated Substances in excess of its Total Maximum Daily Inventory; or
 - (2) a type and quantity of Regulated Substances of such hazard that its Facility Hazard Potential Rating is exceeded.
- F. The Zoning Administrator, as permitted under the **Township** Zoning Ordinance Chapter 21 (Administration and Enforcement) shall not permit substitution of a non-conforming use that results in an increase in the Total Maximum Daily Inventory or in an increase in the Facility Hazard potential rating assigned to the use.

**SECTION 4.3
GROUNDWATER PROTECTION STANDARDS
IN THE
PROTECTION OVERLAY DISTRICTS**

In a Protection District (PD), all uses of land, structures and buildings shall comply with the standards set forth below:

- A. Use of Regulated Substances in conjunction with permitted and special land uses in these districts shall be limited so that the aggregate of Regulated Substances in use shall not exceed twenty (20) gallons or one hundred sixty (160) pounds at any time.
- B. A limited exclusion from the provision of sub-section 4.04(A) is authorized for non-routine maintenance or repair of property or equipment. The use of Regulated Substances under this exclusive shall not exceed an aggregate of fifty (50) gallons or four hundred (400) pounds at any time.

- C. A limited exclusion from the provision of sub-section 4.03(B) is authorized for Regulated Substances which are cleaning agents, provide however such cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public, and provided the aggregate inventory of such cleaning agents shall not exceed two hundred (200) gallons or one thousand six hundred (1,600) pounds at any time. In no one case may Regulated Substances claimed under this exclusion include chlorinated solvents.
- D. The Public Works Supervisor shall determine the intensity of each use within these districts utilizing the Total Maximum Daily Inventory and the Facility Hazard Potential Rating in a report provided to the Zoning Administrator.

No use shall handle:

- (1) an amount of Regulated Substances in excess of its Total Maximum Daily Inventory; or
 - (2) a type and quantity of Regulated Substances of such hazard that its Facility Hazard Potential Rating is exceeded.
- E. The Zoning Administrator, as permitted under the **Township** Zoning Ordinance, Chapter 21 (Administration and Enforcement) shall not permit substitution of a non-conforming use that results in an increase in the Total Maximum Daily Inventory or in an increase in the Facility Hazard Potential Rating assigned to the use.
- F. A limited exclusion from the provisions of sub-section 4.04(A) is authorized for on-site storage of a maximum one-year supply of Regulated Substances which are agricultural chemicals to be used for routine on-site agricultural operations, provided such substances are stored in standard approved packaging and such substances are applied to cropland under Best Management Practices as indicated by soil tests, the Michigan State Cooperative Extension Service, the Soil and Water Conservation District and label directions approved by the United States Environmental Protection Agency and the State of Michigan Department of Agriculture. This limited exclusion also applies to the application of agricultural chemicals to cropland where such chemicals are brought in from locations outside Protection Districts (PD). The on-site storage of Regulated Substances which are agricultural chemicals to be used for routine on-site agricultural operations as described above in excess of a one-year supply constitutes the use to be a storage facility. This provision does not exempt such agricultural chemicals either stored on-site or brought in from other locations from the inventory reporting, spill reporting and underground storage tank protection requirements of Protection Districts (PD).

SECTION 4.4
OUTDOOR ACTIVITIES

Outdoor activities in Protection Districts (PD) shall be governed by the regulations contained in the underlying zoning districts. Outdoor activities in Operation Districts (OD) shall be permitted only when associated with a principal use and in compliance with the regulations set forth below:

- A. Accessory Buildings and Uses. Areas devoted to accessory buildings and uses shall be allowed per **Township** Zoning Ordinances No. 26, Chapter 3, Section 3.19 and shall be accessible to firefighting equipment at all times.
- B. Setback. All areas devoted to accessory buildings for storage of goods and materials shall be setback according to Township Zoning Ordinance No. 26, Chapter 8, Section 8.04 and Chapter 9, Section 9.04.
- C. Fences. Fences may be erected in Operation Districts (OD) according to the **Township** Zoning Ordinance No. 26, Chapter 3, Section 3.21.

SECTION 5
ADMINISTRATION AND ENFORCEMENT

It shall be the responsibility of any person owning real estate property and/or owning or operating a business with the **Township** to make a determination of the applicability of the requirements of Operation Districts (OD) and Protection Districts (PD) as such pertains to the property and/or business under his/her ownership or operation, and his/her failure to do so shall not excuse any violations of said sections.

- A. Violations. **Township** Zoning Ordinance No. 26, Chapter 21, Section 21.08 shall be applicable to buildings, structures, accessory uses and in addition the following conditions are considered violations:
 - 1. If the **Township** Public Works Supervisor determines that a violation has occurred and that there is an imminent danger of a release of hazardous materials into the environment resulting from the violation governing storage, handling, use and transportation of a hazardous material, the **Township** may declare that a nuisance exists and may issue a civil infraction, without prior notice, to require immediate action to be taken to halt any activity causing such imminent danger, and direct the individual or business to immediately take steps to correct any conditions contributing to the danger.

2. Should hazardous materials released as a result of a violation, or as a result of a failure to correct a violation, the individual or business responsible for such spill shall be civilly liable for all costs, expenses and actual attorney fees incurred by the **Township** to remedy such violation.
3. Reinspection Fees.

Any individual or business judicially determined to be in violation of **Township** Ordinance No. 26, Wellhead Protection Area and who fails to correct such violation or comply with such order shall be required to pay the following applicable reinspection fees:

- (a) \$100 or the actual expenses incurred by the **Township**, whichever is greater, if violations remain uncorrected at the time of the first reinspection.
- (b) \$200 or the actual expenses incurred by the **Township**, whichever is greater, if violations remain uncorrected at the time of the second reinspection.
- (c) \$400 or the actual expenses incurred by the **Township**, whichever is greater, for the third and subsequent reinspections if violations remain uncorrected at that time.

A reinspection may occur within 72 hour increments unless the notice of the nature of the violation mandates a shorter reinspection.

- B. The **Township** shall also be entitled to equitable relief to abate the violations and to such other relief as may be available to the **Township** pursuant to Chapters 83 and 87 of the Michigan Revised Judicature Act, Public Act 236 of 1961, as amended, being MCL 600.101, *et seq.*

SECTION 6 SITE PLAN REVIEW

In addition to **Township** Zoning Ordinance No. 26, Chapter 16 (Site Plan Review) and Chapter 17 (Site Plan Requirements) additional information about the types and volumes of all hazardous materials expected to be used in Operation Districts (OD), Chapter 8 (Rural Residential) and Chapter 9 (Medium Density Residential) shall be submitted when a zoning compliance permit is applied for or is required, whichever shall occur first.

- A. A complete list of the types of volumes of all hazardous materials (including fuels) use, stored, processed, handled or disposed.
 - 1. Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the Michigan Department of Agriculture and federal requirements.
- B. Description of types of wastes generated and method of disposal including: solid wastes, hazardous wastes, sewage and non-sewage wastewater discharges.
- C. Location of public water supply wells within 1,000 feet.
- D. A site plan and building plan showing: hazardous materials loading, storage, handling and processing area, floor drains, process vents, sewage disposal and waste storage or disposal areas.
 - 1. Aboveground and underground storage tanks shall be certified/registered, installed, operated, maintained, closed and removed in accordance with requirements of the State of Michigan and federal requirements.
 - 2. All existing above ground and underground storage tanks not regulated by the State of Michigan and federal requirements shall be subject to the requirements of the Well Head Protection Area Ordinance.
- E. Emergency plan to detect and control hazardous materials, leaks and spills, including, but not limited to, inspections, notifications of officials, emergency containment and clean-up procedures.
- F. Other additional information as may be required by reviewing agencies regarding the proposed use, its potential impact to water quality, hydrogeologic information, monitoring and mitigation measures.
- G. State and federal requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances, hazardous wastes, liquid industrial waste of potentially polluting materials shall be met. No discharge to surface water or groundwater, including direct and indirect discharges of waste, waste effluent, wastewater, pollutants, or cooling water, shall be allowed without approval from state, county and local agencies.

SECTION 7
ENFORCEMENT OPTIONS

1. Notice to Owner. Upon notice from the **Township** Zoning Administrator that any use is being conducted or that any work on any building or structure is proceeding contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to owner's agent, or to the person doing the work and shall state the conditions, under which work or the use will be permitted to resume.
2. Unlawful Continuance. Any person who shall continue to work in or about the structure, land or building or use it after having been served with a stop work order, except work that the person is directed to perform to remove a violation, shall be in violation of this Ordinance.
3. Civil Infraction. The Township Zoning Administrator may issue municipal civil infraction citations and municipal civil infraction violation notices of this Ordinance.
4. The sanction for any violation of this Ordinance which is a municipal civil infraction shall be a civil fine as provided herein, plus any costs, damages, expenses and other sanctions authorized under Act 12 through 26, Public Acts of Michigan of 1994 and the fee resolutions the **TOWNSHIP OF CRYSTAL FALLS** may adopt from time to time.
 - A. Increased civil fines will be imposed for repeated violations that occur within a 60 month period. Civil fines for first offenses, repeat first offenses and repeat second offenses will be established from time to time by resolution of the Board.
 - B. The **Township** shall also be entitled to equitable relief to abate the violations and to such other relief as may be available to the **Township** pursuant to Chapters 83 and 87 of the Michigan Revised Judicature Act, Public Act 236 of 1961, as amended, being MCL 600.101 et seq; at the present time or in the future.

SECTION 7.1
SEVERABILITY CLAUSE

This Ordinance and the various articles, sections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, section, clause or word is adjudged unconstitutional or invalid for any reason, by any Court of competent jurisdiction, such invalidity shall not affect the remaining portions or applications of this Ordinance which can be given effect without the invalid portion or application, provided such remaining portions are not determined by the Court to be inoperable.

**SECTION 7.2
CONFLICTING PROVISIONS**

Where a provision of this Ordinance conflicts with a provision of another Ordinance, the strictest provision shall prevail.

**SECTION 7.3
EFFECTIVE DATE**

This Ordinance shall be effective _____, 2010.

I, Joanne Seppala, Township Clerk for Crystal Falls Township, certify that the above Ordinance Number ____ is a true and complete copy of said ordinance adopted by the Crystal Falls Township Board on _____, 2010, and signed by Joanne Seppala, Crystal Falls Township Clerk. I further certify that the original of this ordinance has been inserted in the Crystal Falls Township Ordinance Book on _____, 2010.

Joanne Seppala
Township Clerk