

BYLAWS
OF
UPPER SOURIS WATER DISTRICT

ARTICLE I.

GENERAL PURPOSES

Section 1.1 The purpose for which this District is formed is to act as the successor to Upper Souris Water Users Association and to provide water to its participating members located within the District. The powers which the District may exercise are set forth in Chapter 61-35 of the North Dakota Century Code.

ARTICLE II.

NAME AND LOCATION

Section 2.1 The name of the District is: **Upper Souris Water District.**

Section 2.2 The principal office of this District is located at 43601 506th Street NW, Kenmare, ND 58746.

ARTICLE III.

SEAL

No seal shall be required for the District.

ARTICLE IV.

FISCAL YEAR

The fiscal year of the District is the calendar year.

ARTICLE V.

MEMBERSHIP

Section 5.1 Member means an owner of real property that is located within the District, the tenant of the real property, or other person acting for the owner with the owner's written consent. Any city having a water distribution system may become a member of the District.

Section 5.2 **Benefit** unit means the fee each member pays (for each service that is planned to be connected to the water system) for the privilege of using the District's facilities.

Section 5.3 Participating member means a member who has subscribed to and paid the established fee for at least one benefit unit in the District. Participating membership shall not be denied because of the applicant's race, color, creed or national origin. Participating membership may be denied if capacity of the District's water system is exhausted by the needs of its existing participating members, or the proposed use of the applicant is such that it would interfere with the existing uses previously authorized by the board of directors. All members of Upper Souris Water Users Association are participating members of the District without payment of any additional fee. Any city or other entity that is a participating member may designate a natural person to represent them as a participating member. In the absence of a designation the auditor of a city and the president of a corporation shall be considered the representative.

(1) Before participating membership is allowed to one or more persons claiming an interest in the property to be served, the District shall first attempt to obtain the application for participating membership from the owner of the property.

(2) Where participating membership is granted to one or more persons other than the owner of the property, the District, as a condition to the participating membership, may require the applicant for participating membership to post such collateral or bond as the directors determine necessary fully protect the District from any additional risk that may be involved to the District by reason of the lack of legal ownership in the applicant.

Section 5.4 Each participating member shall have one vote for each benefit unit subscribed to. Each benefit unit shall represent one (1) vote. When more than one person hold the interest in a property served, the vote shall be exercised by the person in whose name the benefit unit is registered or by such person as the several owners may designate, but in no event shall more than one vote be cast with respect to any benefit unit.

Section 5.5 Participating membership shall be transferable but the transfer will be effective only when noted on the books of the District. Such transfer will be made only to a person who obtains a qualifying interest in the property. A participating member will transfer his membership in the District of a successor-in-interest as part of the transaction whereby the disposes of his interest to said party. The secretary, upon request, will make notice of the transfer upon the records of the District.

Section 5.6 When participating membership in the District is not transferred, it shall terminate upon the disposition or other termination of the member's interest in the property. Participating membership also may be terminated by action of the board of directors where the use of the property is changed so as to materially increase the amount of water consumed to the prejudice of other existing members or to the prejudice of the orderly operation of the system.

Section 5.7 The termination of the participating membership of any member shall not disqualify for participating membership any other person who has or obtains an interest in the property of the terminated participating member and who otherwise meets the requirements of these bylaws.

Section 5.8 In the event a participating member's property interest is divested other than by voluntary means, such participating member's membership will pass to the trustee, receiver, personal representative, or the like, who will be entitled either in person or through a designated representative to exercise all the rights incident to such participating membership, but subject to such duties and liabilities also applicable to the participating membership. The trustee, receiver, personal representative, or the like, may terminate such participating membership by written notice effect delivered or mailed to the secretary or manager of the District. Upon the final disposition of such property rights, the owner thereof shall be entitled to participating

membership in like manner as if the participating membership had been transferred to him by the original participating member.

Section 5.9 Upon the transfer of a participating membership, the District will not look to the successor-in-interest for the payment of any past due amounts. The District will seek collection only for the individual who incurred such charges or assessments, or from the property itself if a judgment lien had been duly perfected against such property.

ARTICLE VI.

MEMBERSHIP CERTIFICATES

Section 6.1 The District shall not issue participating membership certificates. Membership shall be evidenced by entry upon the book and records of the District without the issuance of a formal certificate.

ARTICLE VII.

MEETING OF MEMBERS

Section 7.1 The annual meeting of the participating members of the District shall be held at a location and time designated by the board of directors within six (6) months after the end of the calendar year. Written notice of the time and place of the meeting shall be sent to all participating members of record by first-class mail directed to the address shown upon the book of the District not less than the ten (10) nor more than thirty (30) days before the meeting. Notice of the meeting must also be published in the official newspaper of each county served by the District not less than ten (10) nor more than thirty (30) days before the meeting. No failure or irregularity of notice of any annual meeting shall affect any proceedings taken thereat.

Section 7.2 Special meeting of the participating members may be called at any time by the action at any time by the action of the board of directors and such meeting must be called whenever a petition requesting such meeting is signed by at least five percent (5%) of the participating members and presented to the secretary or to the board of directors. The purpose of every special meeting shall be stated in the notice thereof, and not business shall be transacted thereat except as specified in the notice.

Section 7.3 Notice of special meetings of participating members of the District shall be given by notice mailed by first-class mail to each participating member of record, directed to the address shown upon the books of the District, not less than ten (10) nor more than thirty (30) days prior to such meetings. Such notice shall state the nature, time, place and purpose of the meeting. Notice of the special meeting must also be published in the official newspaper of each county served by the District no less than ten (10) nor more than thirty (30) days before the meeting. No failure or irregularity of notice of any special meeting, regularly held, shall affect any proceeding taken thereat.

Section 7.4 The presence at a meeting of participating members entitled to cast their own right shall constitute a quorum.

Section 7.5 Directors of the District shall be elected at the annual meeting of the participating members.

Section 7.6 The order of business at the regular meetings, and so far as possible at all other meeting shall be:

- (1) Call to order and proof of quorum;
- (2) Proof of notice of meeting;
- (3) Reading and action of any unapproved minutes;
- (4) Reports of officers and committees;
- (5) Election of directors;
- (6) Unfinished business;
- (7) New business;
- (8) Adjournment.

ARTICLE VIII.

DIRECTORS AND OFFICERS

Section 8.1 The board of directors of the District shall consist of seven (7) members, all of whom shall be participating members. The initial board of directors shall consist of the seven (7) directors previously elected by Upper Souris Water Users Association who shall continue to serve until their successors are elected and have qualified. The directors shall be divided into classed according to their existing remaining terms. Three (3) directors shall continue to serve for a term of one year; two (2) directors for a term of two years; and two (2) directors for a term of three years. At each annual meeting, the participating members shall elect for a term of three years the number of directors whose term of office have expired. Each director shall hold office for the term for which he/she is elected and until his/her successor shall have been elected and qualified. Directors shall serve no more than three consecutive elected terms.

One director shall be elected for each of the following districts:

- (1) North Lakeview, Stafford, Prosperity, Colouhoun and Eden Valley Townships.
- (2) South Lakeview, Rockford, Grover, Hamerly, Hurley, Hoffman, Bowbellsm Minnesota and and E. Minnesota Townships.
- (3) McKinney and Hamlet Townships.
- (4) Denmark and Kenmare (east of the Des Lacs), Fairbanks, Saul Prairie and Roosevelt and all townships west of the Des Lacs Lakes.
- (5) Baden (east of the Des Lacs), Carbondale, Greenbush, Ivanhoe, White Ash, Carpio, Mayland, St, Marys, Waterford, Tatman, Margaret, Deering and Plain Townships.
- (6) Brandon, Cutbank, Grassland, Clay, Blaine, Callahan, Lockwood and Lansford Townships.
- (7) Mt. Rose, Lewis, Newburg, Elms, Chatfield, Pratt, Muskego, Van Buren, Ensign, Prescott and Grilley Townships.

Section 8.2 The board of directors shall meet on the same day and immediately following the annual meeting of the participating members and shall elect a president, vice-president, and secretary-treasurer, each of whom shall hold office until the next annual meeting of participating members and until the election and qualification of his/her successor unless sooner removed by death, resignation or for cause.

Section 8.3 If the position of director, or the office held by any director becomes vacant by reason of death, resignation, retirement, disqualification or otherwise, a majority of the remaining

directors, though less than a quorum shall, by majority vote, choose a successor member of the board of directors or office for the unexpired term.

Section 8.4 A majority of the board of directors shall constitute a quorum at any meeting of the board. The Affirmative vote of the majority of the directors at a meeting at which a quorum is present shall be the act of the board.

Section 8.5 Each member of the board of directors shall receive compensation as determined by the board of directors and actual mileage expense at the current rate prescribed by the Internal Revenue Service as reimbursement for expenses for each meeting for the board of directors actually attended.

Section 8.6 Any member may bring charges against a director by filing such charges in writing with the secretary, together with a petition signed by at least ten percent (10%) of the members and request the removal of such director by reason thereof. The director against whom such charges have been brought shall be informed in writing of the charges at least twenty(20) days prior to the meeting at which the charges are to be heard in person or by counsel and to present evidence in respect to the charges; and the person or persons bringing the charges against him/her shall have the same opportunity. The question of the removal of such director shall be voted upon at the next regular or special meeting of the members and vacancy created by such removal may be filled by vote of the members at such meeting without compliance with the foregoing provisions with respect to nominations.

ARTICLE IX.

DUTIES OF THE DIRECTORS

Section 9.1 The board of directors, subject to restrictions of law and these bylaws shall exercise all of the powers of the Director without prejudice to or limitation upon their general powers. It is hereby expressly provided that the board of directors shall have, and are hereby given, full power and authority in respect to the matters as hereinafter set forth to be exercised by resolution duly adopted by the board. These powers shall be in addition or supplemental to the powers granted in Section 61-35-12 of the North Dakota Century Code.

(1) Approve participating membership applications. The board may make binding commitments to issue participating memberships and permit the connection of properties to the system in the future in cases involving proposed construction or may issue such participating membership prior to the commencement of the proposed construction.

(2) Select and appoint all officers, agents or employees of the District, remove such agents or employees of the District, prescribe such duties and designate such powers as may not be inconsistent with these bylaws, fix their compensation, and pay for faithful services.

(3) Borrow from any source, money, goods or services and to make and issue notes and other negotiable or non-negotiable instruments evidencing indebtedness of the District, make and issue mortgages, deeds of trust, pledges of revenue, trust agreements, security agreements and financing statements, and other instruments evidencing a security interest in the assets of the District, and do every act and thing necessary to effectuate the same.

(4) Prescribe, adopt, and amend, for time to time, such equitable uniform rules and regulations as, in its discretion, may be deemed essential or convenient for the conduct of the business and affairs of the District and the guidance and control of its officers and employees, and prescribe adequate penalties for the breach thereof.

(5) Order, at least once a year, and audit, and or financial review, of the books and accounts of the District by a certified public accountant.

(6) Fix and alter the charges to be paid for each benefit unit by participating members for services rendered by the district to the participating member, including connection fees where such are deemed to be necessary by the directors, and fix and alter the method of billing, time of payment, manner of connection, and penalties for late or nonpayment of the same. The board may establish one or more classed of participating members or benefit units. All charges shall be uniform and nondiscriminating within each class of participating members of each benefits units.

(7) Require all officers, agents and employees charged with responsibility for the custody of any of the funds of the District to give adequate bonds, the cost thereof to be paid by the District. It shall be mandatory for the directors to require that all officers, agents, and employees responsible for the custody of any funds to be adequately bonded at the expense of the District.

(8) Select one or more insured financial institution to act as depositories of the funds of the District and to determine the manner of receiving, depositing, and disbursing the funds of the District and the form of checks and the person by whom the same shall be signed, with the power to change such banks and the person or persons signing such checks and the form thereof at will.

(9) Levy assessments and late payment penalties against the participating members of the District in such manner and upon such proportionate basis as the director deem equitable, and to enforce collection of such assessments by the suspension of water service or other legal methods. The board of directors shall have the option to suspend the service of any participating member who has not paid such assessment within sixty (60) days for the date assessment was due, provided the District must give the participating member at least ten (10) days written notice at the address of the participating member on the books of the District of its intention to suspend such service if the assessment is not paid. Upon payment of such assessment, any penalties applicable thereto, and a reconnection charge, if one is in effect, service will be promptly restored to such participating member.

ARTICLE X.

DUTIES OF OFFICERS

Section 10.1 Duties of President. The President shall preside over all meetings of the District and the board of directors, call special meetings of the board of directors, perform all acts and duties usually preformed by an executive and presiding officers, and sign all papers of the District as he/she may be authorized or directed to sign by board of directors. The board of directors, by resolution, may authorize a person other than the president to sign any or all checks, contracts, and other instruments on behalf of the District. The president shall perform such other duties as may be prescribed by the board of directors.

Section 10.2 Duties of Vice President. In the absence or disability of the president, the vice-president shall perform the duties of the president. In case of the death, resignation or disability of the president, the board of directors may declare the office vacant and elect his or her successor.

Section 10.3 Duties of the Secretary-Treasurer. The secretary-treasurer shall keep a complete record of all meetings of the District and of the board of directors and shall have general charge and supervision of the books and records of the District. In addition the secretary-treasurer shall:

(1) Attest the president's signature on all papers pertaining to the District unless otherwise directed by the board of directors;

(2) Serve, mail, or deliver all notices required by the law and by these bylaws;

(3) Make a full report of all matters and business pertaining to his/her office to the members at the annual meeting or at such other time or times as the board of directors may require;

(4) Keep the participating membership records of the District showing the name of each participating member of the District and date of issuance, surrender, transfer, termination, cancellation or forfeiture;

(5) Make all reports required by law and shall perform such other duties as may be required of him/her by the District or the board of directors.

(6) Perform such duties with respect to the finances of the District as may be prescribed by the board of directors.

ARTICLE XI.

BENEFITS AND DUTIES OF PARTICIPATING MEMBERS

Section 11.1 The District will install, maintain, and operate a main distribution pipeline or pipelines from the source of the water supply and service lines from the main distribution or pipelines to the property line or curb stop valve location of each participating member of the District. At each property line, curb stop valve location, or other point designated as a delivery point, the member shall place meters which the District will purchase, own, and maintain. The cost of the service line or lines from the main distribution pipeline or pipelines of the District to the property line, curb stop valve location, or other designated delivery point of each participating member shall be paid by the District. The District shall have to sole and exclusive right to the use of such cut-off valve, meter and other equipment. The provisions of the section shall not be construed to require the acquisition or installation of meters. Cut-off valves or other equipment installed by the District where the directors determine that the circumstances are such that the use of either or both of such devices is impractical, unnecessary to protect the system and the rights of the participating membership, or economically not feasible. A curb stop valve location shall be designated by the board of directors or their agent for each user. This location may be in the proximity of the existing yard pole used for rural electrification purposes or at some other convenient point specified by the board of directors or their agent.

Section 11.2 Each participating member will be required at his or her own expense to dig a trench for the connection of the service line or lines from the property line, curb stop valve location, or other point designated by the board of directors or their agent to his or her dwelling or other portion of his or her premises, and to purchase and install the portion of the service line or lines from his or her property line, curb stop valve location, or other point designated by the board of directors or their agent to the place of use on his or her premises. The participating member will maintain such portion of such line or lines owned him or her, at his or her own expense. The District may, if the board of directors so determines, purchase the pipe and install the participating member's portion of such service line or lines. The cost of the participating member's portion shall be paid by the participating member. In addition, each participating member shall pay such connection charges, if any, as may have been imposed by the board of directors before such participating member will be entitled to receive water from the system.

Section 11.3 Each participating member may be permitted to have additional service lines for the District's water system by obtaining an additional benefit unit. The additional service line shall be at discretion of the board of directors upon proper application thereof and the tender of a benefit unit payment for the additional service. The approval by the board of directors of additional service lines to an existing participating member may be made conditional upon such

provisions as the board of directors determines necessary to protect the interest of other participating members and to allow for the ordinary extension of the system to serve other property that may need service along the distribution lines of the system. Each approved service line shall connect with the District's water system at the nearest available place of desired use by the participating member. No service line will be approved if the District's water system does not have sufficient capacity to permit the delivery of water through a service line at the point without interfering with the delivery of water to existing participating members unless the additional benefit unit agrees to be assessed for all additional costs of providing the additional capacity necessary to serve the line.

Section 11.4 Each participating member may be permitted to purchase from the District, pursuant to such agreement as may be from time to time provided and required by the District, such water as is needed by him or her for domestic, commercial, agricultural, industrial or other purposes as a participating member may desire, subject to the provisions of these bylaws and to such rules and regulations as may be prescribed by the board of directors. Each participating member shall be entitled to have delivered to him or her through his or her service lines only such water as may be necessary to supply the needs of each participating member, including his or her family business, agricultural, or industrial requirements. The water delivered through each service line may be metered separately and the charges for such water may be determined separately, irrespective of the number of service lines owned by the participating member.

Section 11.5 In the event the total water supply shall be insufficient to meet all the needs of the participating members, or in the event there is a shortage of water, the District may prorate the water available among the various participating members benefit units on such basis as is deemed equitable by the board of directors. The board of directors may also prescribe a schedule of hours covering use of water for commercial, agricultural, or industrial purposes by particular participating members benefit units and require adherence thereto or prohibit the use of water for commercial, agricultural or industrial purposes. If at any time the total water supply shall be insufficient to meet all the needs of all the participating members benefit units for domestic, livestock, commercial, agricultural or industrial purposes, the District must first satisfy all of the reasonable needs of the participating members benefit units for domestic purposes before supplying any water for livestock purposes and must satisfy all of the needs of all the participating members benefit units for domestic and livestock purposes before supplying any water for commercial or industrial purposes. When participating member has more than one (1) benefit unit, the District may cut off the flow of water to the non-domestic unit such time as the supply of water from the system is sufficient to meet the needs of all the participating members benefit units for domestic, livestock, and garden purposes. During such periods of shutoff of additional benefit units, there shall be no minimum fee charged to the participating members benefit units which were disconnected and the cost, if any, of resuming the flow of water to such additional benefit units when water becomes available shall be borne by the District.

Section 11.6 The board of directors shall determine the flat minimum monthly rate to be charged each participating member benefit unit during the following calendar year by a specified quantity of water. The flat minimum monthly rate shall be payable irrespective of whether any water is used by a participating member benefit unit during any month. A participating member shall pay such charges at the office designated by the District prior to the dates fixed by the board of directors before he or she shall receive water. The failure to pay water charges duly imposed shall result in the automatic imposition of the following penalties.

(1) Nonpayment within ten (10) days from the due date will be subject to a penalty in an amount set by the board of directors.

(2) Nonpayment within sixty (60) days from the due date will result in the water being shut off from the participating members benefit unit without any notice thereof to the delinquent participating member. When the delinquent participating member pays the past due water charges, penalties thereon, and any reconnection charge for the benefit unit, he or she shall be entitled to resumption of the water service for that benefit unit. During the time of such suspension of water service to a participating members benefit unit, such participating member's right to vote for that benefit unit shall be suspended.

Section 11.7 The board of directors is authorized to require each participating member to enter into a participating membership agreement which shall contain the principles and provisions set forth in these bylaws.

ARTICLE XII.

RULES AND REGULATIONS

Section 12.1 The board of directors shall also have the authority to adopt rules and regulations for the conduct of the business affairs of the District as long as the rules and regulations are not contrary to the bylaws of the District. The District shall provide a copy of the rules and regulations to each member.

ARTICLE XIII.

AMENDMENTS

Section 13.1 These bylaws may be repealed or amended by a vote of a majority of the participating members present at any regular meeting of the District, or at any special meeting of the District called for that purpose. So long as any indebtedness is held by or guaranteed by the Rural Utilities Service or their successors or assigns, the participating members shall not have the power to change the purposes of the District so as to decrease its rights and powers under the laws of this state, or to waive the bond or other provision for the safety and security of the property and funds of the District or its participating members, or so to amend the bylaws as to effect a fundamental change in the policies of the District without the prior approval of the Rural Utilities Service, their successors or assigns, in writing.

ARTICLE XIV.

ASSUMPTION OF LIABILITIES

Section 14.1 The District assumes and agrees to pay all debts, obligations and liabilities to its predecessor organization, Upper Souris Water Users Association, in the same manner as if the District had originally incurred the debt.

ARTICLE XV.

DIRECTORS' AND OFFICERS' LIABILITY REIMBURSEMENT

Section 15.1 Each officer, director, staff member or person serving on a committee of the District shall be indemnified by the District against all costs and expenses actually and

necessarily, incurred by him or her in connection with the defense of any action, suit or proceedings in which he or she is made a party by reason of being been a director, officer, staff member or committee representative of the District, whether or not he or she continues to be such at the time of incurring such costs or expense, except in relation to matters as to which he or she shall be adjudged in such action, suit or proceedings to be liable for negligence or misconduct in the performance of his or her duties as such officer, director, staff member or committee representative of indemnification hereunder shall no be exclusive of other rights to which any officer, director, staff member or committee representative shall be entitled as a matter of law. The forgoing shall not preclude the collection of insurance benefits that may be available.

Approved and or Amended

Date: 2008