

**BY-LAWS OF CLAY RURAL WATER SYSTEM, INC.**

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# **BY-LAWS OF CLAY RURAL WATER SYSTEM, INC.**

## **ARTICLE I.** **GENERAL PURPOSES**

This corporation is incorporated under the laws of the State of South Dakota and shall be known as the Clay Rural Water System, Inc.

The purposes for which the corporation is formed, and the powers which it may exercise are set forth in the Articles of Incorporation.

## **ARTICLE II.** **NAME AND LOCATION**

Section 1. The name of the corporation is the Clay Rural Water System, Inc.

Section 2. The principal office and place of business of this corporation shall be located at Wakonda, State of South Dakota, but the corporation may maintain offices and places of business at other places within or without the State as the Board of Directors may determine. (Amended 3/28/89)

## **ARTICLE III.** **SEAL OF CORPORATION**

Section 1. The seal of the corporation shall have inscribed thereon the name of the corporation, the year of its organization and the words, Clay Rural Water System, Inc.

Section 2. The Secretary shall have custody of the seal.

Section 3. The impression of the seal shall be made on all papers and documents requiring the signature of an executive officer of the corporation.

## **ARTICLE IV.** **FISCAL YEAR**

The fiscal year of the corporation shall begin the 1<sup>st</sup> day of January in each year.

## **ARTICLE V.** **GOVERNING BODY**

Section 1. This corporation shall be governed by a Board of Directors consisting of nine members to be elected by the members of the corporation at the first annual meeting in 1980 and at each annual meeting thereafter as set forth in Article VIII of these By-laws. Such board shall meet after the adjournment of the annual meeting of the members and organize by electing a President, Vice-President, Secretary and Treasurer from their own number. (Amended 7/23/09)

## **ARTICLE VI.** **MEMBERSHIP**

Section 1. The holders of membership must be a user of the System. In order to become a member, the user must have either paid a membership fee or executed a membership transfer form. (Amended 3/28/09)

Section 2. The Board of Directors is authorized and directed to:

- a. Approve membership in the corporation to each of the aforesaid members who shall thereafter be entitled to all the privileges and benefits contemplated by the Articles of Incorporation by signing such agreements for the purchase of water as are required by the corporation. Additional members who are qualified by reason of location and ownership may be accepted as members of the corporation if facilities and sufficiency of water is available upon the usual agreement for purchases of water and paying the required fee, and otherwise complying with Articles of the Corporation and By-laws. No person otherwise eligible shall be permitted to subscribe for or otherwise acquire membership in the corporation if the capacity of the System is inadequate to supply the water to an additional member without jeopardizing the necessary supply of water for the existing members. (Amended 3/17/01)
- b. Each membership is issued and accepted in accordance with and subject to the conditions and restrictions stipulated in the Articles of Incorporation and By-laws and amendments to the same.” (Amended 3/17/01)
- c. No member of this corporation shall be entitled to more than one vote at meetings of the members or to hold more than one membership in the corporation. (Amended 3/28/09)

Section 3. All transfers of membership shall be made upon the books of the corporation only with the approval of the Board of Directors and only to persons eligible to become members and only when the transferring member is free from indebtedness to the corporation. (Amended 3/17/01)

Section 4. Each member agrees to sign such Water User’s Agreements as the corporation shall from time to time provide and require.

Section 5. In case of the death of a member or if a member ceases to be eligible to hold membership as provided in Section 1, or willfully fails to comply with these By-laws and other requirements, or willfully obstructs the purposes and proper activities of the corporation, the corporation, through the Board of Directors, may elect to terminate their membership. Any member, whose membership is so terminated for cause other than that of ceasing to be eligible, may appeal from the action of the Board of Directors to a vote of the members at the next regular meeting of the members or special meeting of the members called for such purpose. (Amended 3/28/09)

## **ARTICLE VII.** **MEETING OF MEMBERS**

Section 1. The annual meeting of the members of this corporation shall be held within the counties of Clay or Union, State of South Dakota, on a day during February or March in each year. The place of the annual meeting may be changed from year to year by majority vote of the Board of Directors.

Section 2. Special meeting of the members may be called at any time by (1) action of the Board of Directors or (2) by members of this corporation whenever a petition requesting such meeting is signed by at least five percent (5%) of the 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 no business shall be transacted thereat except such as is specified in the notice.

Section 3. Notice of meetings of members of the Corporation may be given by a notice mailed to each member of record, directed to the address shown upon the books of the corporation, at least ten days prior to the meeting. Such a notice shall state the nature, time and place and purpose of the meeting, but no failure or irregularity of notice of any annual meeting, regularly held, shall effect any proceedings taken thereat.

Section 4. Twenty members shall constitute a quorum for the transaction of business at any meeting. Unless such quorum is present, no business shall be transacted. If, however, such quorum shall not be present at any regular or special meeting, the members present shall have power to adjust the meeting from time to time without notice other than announcement at the meeting, until a quorum is present. Any business may be transacted which might have been transacted at the meeting as originally called. (Amended 2/25/99)

Section 5. Officers and directors may be removed from office in the following manner: Any member, officer or director may present charges against a director or officer by filing them in writing with the secretary of the corporation. If presented by a member, the charges must be accompanied by a petition signed by ten percent (10%) of the members of the corporation. Such removal shall be voted on at the next regular or special meeting of the members and shall be effective if approved by a vote of a majority of those voting if a quorum is present. The director or officer against whom such charges have been presented shall be informed, in writing, of such charges at least twenty (20) days prior to the meeting, and shall have the opportunity at such meeting to be heard in person or by counsel and to present witnesses; and the person or persons presenting such charges against him shall have the same opportunity. If the removal of a director is approved, such action shall also vacate any other office held by the removed director in the corporation. A vacancy in the board thus created shall immediately be filled by a vote of a majority of the members present and voting at such meeting. A vacancy in any office thus created shall be filled by the board of directors from among their number so constituted after the vacancy in the board has been filled. For the purpose of this section, the President of the Board of Directors shall be in charge of the meeting and shall designate someone from the Board of Directors to act as recorder to record, in detail, all remarks, and testimony and to accept and file all papers, documents and other pertinent items relating to the matter of removal of the director. If the director who is sought to be removed is the President, then the Vice-President shall be in charge.

Section 6. All meetings of the members of this corporation and all meetings of the Board of Directors and any committees or sub-committees operating thereunder shall be conducted in accordance with Roberts Rules of Order except in such cases and under such circumstances as are specifically excepted by these By-laws. (Amended 2/9/77)

Section 7. Each member shall be entitled to only one vote upon each matter submitted to a vote at any meeting of the members. Voting by members other than members who are natural persons shall be allowed upon presentation to the Corporation, prior to or upon registration at each member meeting, of satisfactory certification entitling the person presenting the same to vote. At all meetings of the members, all questions shall be decided by a majority of the members voting thereon, except as provided by law or by the Corporations Articles of Incorporation of the By-laws. Members may not cumulate their vote or vote by proxy. (Added 3/23/93)

## **ARTICLE VII (1)** **MEETING OF DIRECTORS**

Section 1. Regular Meetings. A regular meeting of the Board of Directors shall also be held monthly at such time and place in Clay or Union County, South Dakota, as the Board of Directors may provide by resolution. Such regular monthly meeting may be held without notice other than such resolution fixing the time and place thereof. (Amended 7/23/09)

Section 2. Special Meetings. Special meetings of the Board of Directors may be called by the President or by any three directors and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. The President of the directors calling the meeting shall fix the time and place, for the holding of the meeting. Special meetings, upon proper notice as otherwise provided in

Section 3 may also be held via telephone conference call, without regard to the actual location of the directors at the time of such a telephone conference meeting, if all the directors consent thereto.

Section 3. Notice of Director's Meetings. Written notice of the time, place and purpose of any special meeting of the Board of Directors shall be delivered to each director not less than five days previous thereto either personally or by mail, by or at the direction of the Secretary, or upon a default in duty by the Secretary, by the President or the directors calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the director at his address as it appears on the records of the Corporation, with postage thereon prepaid. The attendance of a director at any meeting of the Board shall constitute a waiver of notice of such meeting unless such attendance shall be for the express purpose of objecting to the transaction of any business, or of one or more items of business, on the ground that the meeting shall not have been lawfully called or convened.

Section 4. Quorum. A majority of the Board of Directors shall constitute a quorum, provided, that if less than such majority of the directors is present at said meeting, a majority of the directors present may adjourn the meeting from time to time; and provided further, that the Secretary shall notify any absent directors of the time and place of such adjourned meeting. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. (Added 3/20/97)

## **ARTICLE VIII.**

### **OFFICERS AND DIRECTORS**

Section 1. The officers of the Corporation shall be elected from the members of the Board of Directors and shall be a President, Vice-President, Secretary, Treasurer and such other officers as may be determined by the Board of Directors from time to time. The offices of Secretary and of Treasurer may be held by the same person.

Section 2. The Board of Directors shall be elected at the regular annual meeting and serve their respective terms until their successors shall be elected and qualified. At the first annual meeting of the members, a director shall be elected from each of the three districts for a one year, two year, and three year term. Thereafter, all directors shall be elected from the members to serve for a term of three years each from their respective districts. Nominations and election of each director shall be made for each district only by members of each respective district. Before any member may be nominated, they must submit a Notice of Intent to Seek Nomination For Director Position form to the Corporation Office not less than twenty days before the scheduled respective district election. Upon receipt of such Notice of Intent, and having found the same to be in order, the Secretary shall post such Notice of Intent at the Corporation office not less than twenty days prior to the respective district election. The Secretary shall mail with the notice of the district election, at least ten days before the date of the election, a statement of the number of directors to be elected and the names and addresses of the candidates. No nominations from the floor, nor late filed Notices, shall be permitted at any district election wherein a Notice of Intent Form has been filed; in the event no Notice of Intent Forms have been filed, the vacancy shall be filled by the Board of Directors. Only members present at the District Election at the time the Chairman of the Election Board calls the meeting to order will be eligible to vote in said election. No person shall be eligible or remain a director or to hold any position of trust in the Corporation who is not a member and a bona fide resident in the area served by the Corporation. Individuals certified to represent members other than natural persons as described in Article VII Section 7, shall not be eligible to serve on the Board of Directors. (Amended 3/29/08)

Section 3. If the office of Director or Officer should become vacant for any cause, the Board of Directors may choose a successor from the members of the District where the vacancy exists, who shall serve to the next regularly scheduled District election. The member elected shall serve for the remainder of the un-expired term as provided in the By-laws. (Amended 3/24/07)

Section 4. Subject to Paragraph XIV of the Articles of Incorporation, compensation of officers may be fixed at any regular or special meeting of the members of the corporation.

Section 5. Directors shall not serve more than four full three year terms. (Amended 7/23/09)

Section 6. For the purpose of election of Directors, the System shall be divided into three districts by the Board of Directors. The division of the districts shall be by townships. (Amended 2/25/99)

Section 7. The Board of Directors shall review the membership in the districts annually and shall inform the members when notified of the annual meeting if there are any changes in District boundaries.

Section 8.

- a. It is the intent of the provisions of this chapter to procure a speedy and correct determination of the true and actual count of all ballots cast at any election of the members of the corporation or the Board of Directors of the corporation, which ballots are valid on their face, and all provisions of this Section shall be liberally construed to that end.
- b. For the purpose of conducting any and all elections of the members of this corporation and the Board of Directors, there shall be appointed an Election Board as follows:
  1. Any election of the members of the corporation: The President shall appoint one member from each of the three districts of the corporation, one member from the Board of Directors and a duly qualified member of the Bar of the State of South Dakota, said member of the Bar of the State of South Dakota to act as chairman of the Election Board. Members of the Election Board shall be eligible to vote in the election they are supervising if they are qualified as a member of that district. A majority of the Election Board members present shall constitute a quorum. (Amended 3/29/08)
  2. For an election of the Board of Directors: the President will select two members of the Board of Directors and a duly qualified member of the Bar of the State of South Dakota, said member of the Bar of the State of South Dakota to act as Chairman of the Election Board. Members of the Election Board shall be eligible to vote in the election they are supervising if they are qualified as a member of the Board of Directors. (Amended 3/14/91).
- c. It shall be the duty of the Election Board to supervise and conduct the entire election proceedings of any election including the required notice of election of candidates, supervising the marking, filing, and counting of the official ballots or tallies, and the determination of the result of the voting. In the event that the election board shall determine that there was a tie vote in any election, they shall so certify and the results of the election shall be recounted as provided for under Section 9 of this Article.
- d. If, within five (5) days after any election of the members of this corporation or the Board of Directors any three members of this corporation file with the Officer in charge of the election a petition, duly verified by them, setting forth that they believe that the official returns from such election as to a specified candidate or as to a specified referred or submitted question are erroneous, the votes of such election as to the office or position specified or as to the question specified shall be recounted as provided for under Section 9 of this Article. (Amended 2/9/77).

## Section 9.

- a. Whenever any recount has been requested as authorized under Section 8 of this Article, the President of the board of Directors, or the Vice-President of the Board of Directors in case the requested recount is in the election of the President, shall immediately appoint a recount board which shall consist of a recount referee, who shall be a duly qualified member of the Bar of the State of South Dakota, and two members each from the three districts of the corporation. If the disputed election is for a position on the Board of Directors, then each candidate shall select one of the members so appointed from his district. If the dispute involves more than two candidates, each candidate shall have the right to designate one member on the recount board. All members of the recount board shall act in good faith and impartially with regard to their powers and duties under this Article.
- b. The presiding officer shall within 24 hours from receipt of a request or petition for recount as provided under Section 7 of this Article give notice to the members of the recount board of their appointment to such board and the time and the place of the recount as prescribed to this Article, and, immediately after such appointment, he shall notify all candidates subject to recount of the names of the recount referee and the additional members of the recount board, and the time and place of the recount.
- c. There shall be no compensation or expenses paid to any member of the recount board.
- d. Upon receiving notice that a recount is to be conducted and the appointment of the recount board, the recount board shall convene in the business office of the corporation or a designated alternate location, within 72 hours from receipt of notice of the appointment of the recount board at 10:00 o'clock and shall proceed with the recount.
- e. All questions arising on such recount shall be determined by majority vote of such board, and at least one member from each district and the referee or a person duly appointed by said referee, must be present at all times.
- f. It shall be the duties of any person or official having custody of the ballot boxes containing the ballots to be recounted to produce the same before such board for the purpose of such recount upon notice so to do the recount referee.
- g. The recount shall proceed as expeditiously as reasonably possible until completed.
- h. Each candidate for any office, nomination, or position involved in any such recount may appear, personally or by a representative, and shall have full opportunity to witness the opening of all ballot boxes and the count of all ballots. If the recount is upon a referred or submitted question, any member of the corporation favoring either side as to such question may be present and represent such side who shall have full opportunity to witness the opening of all ballot boxes and the recount of all ballots.
- i. If any such candidate or any such representative, protests the ruling of such board as to any ballot, such ballot shall be adequately identified by the Board as an exhibit and segregated by the Board as a disputed ballot.
- j. At the conclusion of the recount, the undisputed ballot shall be returned to the ballot box and resealed, and the disputed ballots shall be securely sealed in a separate envelope. The recount board shall make a certificate, signed by at least 60 percent of such Board, setting forth the

number of such disputed ballots and adequately identifying the envelope in which the same are sealed.

- k. The certificate as to the result of the recount and the certificate as the disputed ballots shall be returned to the election board and shall be preserved by the secretary of the Board of Directors as public records for at least one (1) year after such recount.
- l. When the certified results of the recount have been returned to the election board, the result determined on such recount shall be included in the official canvass in lieu of the result as determined by the official returns as to said disputed election.
- m. The determination, as provided in this section, of a corrected and changed result upon a recount as to any nomination or election or referred or submitted question shall have the effect of superceding and rendering null and voids the result as found upon the original canvass.
- n. When a tie vote between candidates is found to exist on the basis of any such re-count , and by reason of such tie vote, it cannot be determined who has been nom-inated or elected, it shall be the duty of the election board to fix a time and place for the drawing of lots by such candidates involved in such tie vote, giving reasonable notice of such time and place to each such candidates, and the winner of such disputed election shall be determined in drawing of lots in the manner directed by such election board, and the certificate or certificates of nomination or election shall be issued accordingly.
- o. The results of the determination of the election made by the above stated recount procedure shall be final and binding upon all parties to any disputed election and shall be appealed from only by a writ of certiorari as provided by SDCL 12-21-47. (Amended – 2/9/77).

## **ARTICLE IX.**

### **DUTIES OF OFFICERS – DIRECTORS**

Section 1. The Board of Directors, subject to the restrictions of the law, the Articles of Incorporation, and By-laws, shall exercise all of the powers of the association; and, 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 (to be exercised by resolution by a majority vote of the Directors) in respect to the matters and as hereinafter set forth.

- a. To pass upon the qualifications of members and to cause to approve membership. (Amended 3/17/01)
- b. To select and appoint all officers, agents or employees of the corporation or re-move such agents or employees of the corporation for just cause, prescribe such duties and designate such powers as may not be inconsistent with these By-laws, fix their compensation and pay for faithful services.
- c. To borrow from any source, money, goods or services and to make and issue notes and other negotiable and transferable instruments, mortgages, deeds of trust and trust agreements and to do every act and thing necessary to effectuate the same.

- d. To prescribe, adopt and amend, from time to time such equitable uniform rules and regulations as, in their discretion, may be deemed essential or convenient for the conduct of the business and affairs of the corporation and the guidance and control of its officers and employees, and to prescribe adequate penalties for the breach thereof.
- e. To order, at least once each year, an audit of the books and accounts of the corporation by a competent public auditor or accountant. The report prepared by such auditor or accountant shall be submitted to the members of the corporation at their annual meeting.
- f. To fix the charges to be paid by each member for services rendered by the corporation to him, the time of payment and the manner of collection, and the Board may establish one or more classes of users and shall not discriminate within the class.
- g. To require all officers, agents and employees charged with responsibility for the custody of any of the funds of the corporation to give adequate bonds, the cost thereof to be paid by the corporation, and it shall be mandatory upon the Directors to so require.
- h. To select one or more banks to act as depositories of the funds of the corporation and to determine the manner of receiving, depositing, and disbursing the funds of the corporation and the form of checks and the person or persons by whom the same shall be signed, with the power to change such banks and the person or persons signing such checks.
- i. To levy assessments upon the members of the corporation. Notice of assessments so levied by the Board of Directors shall be mailed to each member at the address shown in the books of the corporation, at least thirty (30) days prior to the final due date for payment thereof. In the event any assessment is not paid when due, the Board of Directors shall have the option to either declare the delinquent membership forfeited, or to bring suit in a court of competent jurisdiction for recovery of the amount of the delinquent assessments as a contract obligation, upon giving the delinquent member thirty (30) days written notice by mail at the address shown in the books of the corporation, of the intended action, if payment is not made prior to that time.

## **ARTICLE X.**

### **DUTIES OF OFFICERS**

Section 1. Duties of President. The President shall preside over all meetings of the corporation and the Board of Directors, call special meetings of the Board of Directors, perform all acts and duties usually performed by an executive and presiding officer, and sign all papers of the corporation as he may be authorized or directed to sign by the Board of Directors, provided the Board of Directors may authorize any person to sign any or all checks, contracts and other instruments in writing on behalf of the corporation. The President shall perform such other duties as may be prescribed by the Board of Directors. (Amended 3/17/01)

Section 2. Duties of the Vice-President. In the absence or disability of the President, the Vice-President shall perform the duties of the President provided, however, that in case of death, resignation or disability of the President, the Board of Directors may declare the office vacant and elect his successor.

Section 3. Duties of the Secretary-Treasurer. The Secretary-Treasurer shall keep a complete record of all meetings of the corporation and of the Board of Directors and shall have general charge and supervision of the books and records of the corporation. He shall sign all such papers pertaining to the corporation as he may be authorized or directed to do so by the board of Directors. He shall serve all notices required by law

and by these By-laws and shall make a full report of all matters and business pertaining to his office to the members at the annual meeting. He shall keep the corporate seal and membership, records of the corporation, complete and countersign and affix said corporate seal to all papers requiring seal. He shall keep a proper membership record, showing the name of each member of the corporation and date of issuance, surrender, cancellation or forfeiture. He shall make all reports required by law and shall perform such other duties as may be required of him by the corporation or the Board of Directors. Upon the election of his successor, the Secretary-Treasurer shall turn over to him all books and other property belonging to the corporation that he may have in his possession. He shall also perform such duties with respect to the finances of the corporation as may be prescribed by the Board of Directors. (Amended 3/17/01)

## **ARTICLE XI.** **DUTIES OF CORPORATION AND MEMBERS**

Section 1. The corporation will install, maintain and operate a main distribution pipeline or lines from the source of the water supply and service lines from the main distribution pipeline or lines to each member of the corporation, at which points, designated as delivery points, meters to be purchased, installed, owned and maintained by the corporation shall be placed. The cost of the service line or lines from the main distribution pipeline or lines of the corporation to the meter point of each member shall be paid by the corporation. The corporation will also purchase and install a cut-off valve in each service line from its main distribution line or lines, such cut-off valve to be owned and maintained by the corporation, and to be installed on some portion of the service line owned by the corporation. The corporation shall have the sole and exclusive right to use such cut-off valve to turn it on and off.

Section 2. Each member shall be entitled to a service line or line for which he shall pay a fee fixed by the Board of Directors. The water delivered through such service lines will be metered.

Section 3. The Board of Directors shall determine the water rate to be charged each member, and shall notify each member of the amount of such charges and the dates for the payment thereof. The Board of Directors shall determine whether members shall be charged a connection fee, and the amount of the fee. A member to be entitled to the delivery of water shall pay such charges at the office of the corporation at or prior to the dates fixed by the Board of Directors. The failure to pay water charges duly imposed shall result in penalties to be determined by the Board of Directors.

Section 4. The Board of Directors shall be authorized to require each member to enter into Water User Agreements which shall embody the principles set forth in the foregoing sections of this article.

Section 5. In the event the total water supply shall be insufficient to meet all of the needs of the members or in the event there is a shortage of water, the corporation may prorate the water available among the various members on such basis as is deemed equitable by the Board of Directors, and may also prescribe a schedule of hours covering use of water for commercial, agricultural or industrial purposes; provided, that if at any time the total water supply shall be insufficient to meet all of the needs of the members for domestic, livestock, commercial, agricultural or industrial purposes, the corporation must first satisfy all of the reasonable needs of the members for domestic purposes before supplying any water for livestock purposes and must satisfy all of the needs of all of the members for domestic and livestock purposes before supplying any water for commercial or industrial purposes; and, provided further, that where a members has more than one service line, the corporation may cut off the flow of water to the non-domestic service lines until such time as the supply of water from the system is sufficient to meet the needs of all of the members for domestic, livestock, and garden purposes. During such periods of shut-off of additional service lines there shall be no minimum fee charged to the members having such additional service lines and the cost, if any, of resuming the flow of water to such additional service lines shall be borne by the corporation.

**ARTICLE XIII.**  
**AMENDMENTS**

Section 1. These By-laws may be repealed or amended by a vote of a majority of the members present at any regular meeting of the corporation, or at any special meeting of the corporation called for that purpose, except that the members shall not have the power to change the purposes of the corporation so as to decrease its rights and powers under the laws of the state, or to waive any requirement of bond or other provision for the safety and security of the property and funds of the corporation or its members, or to deprive any member of rights and privileges then existing, or so to amend the By-laws, as to effect a fundamental change in the policies of the corporation. Notice of any amendment to be made at a special meeting of the members must be given at least ten (10) days before such meeting and must set forth the amendments to be considered.

Approved by majority action of the Board of Directors of the Clay Rural Water System, Inc., on March 1, 1976.

**APPENDIX A**  
**ADOPTED 1/12/77**

Article V, Section 1 of the By-laws of the Clay Rural Water System, Inc. shall be amended to read:

This corporation shall be governed by a Board of Directors consisting of nine members to be elected by the members of the corporation at the first regular annual meeting in 1978 and at each annual meeting thereafter as set forth in Article VIII of these By-laws. Such board shall meet immediately after the adjournment of the annual meeting of the members and organize by electing a President, Vice-President, Secretary and Treasurer from their own number.

**APPENDIX B**  
**ADOPTED 2/9/77**

Article VII of the By-laws of the Clay Rural Water System, Inc. shall be amended by adding the following new Section #6.

Section 6. All meetings of the members of this corporation and all meetings of the Board of Directors and any committees or sub-committees operating thereunder shall be conducted in accordance with Roberts Rules of Order except in such cases and under such circumstances as are specifically excepted by these By-laws.

**APPENDIX C**  
**ADOPTED 2/9/77**

Article VIII of the By-laws of the Clay Rural Water System, Inc. shall be amended by adding the following new Section #8 and Section #9.

Section 8:

- a. It is the intent of the provisions of this chapter to procure a speedy and correct determination of the true and actual count of all ballots cast at any election of the members of the corporation or the Board of Directors of the corporation, which ballots are valid on their face, and all provisions of this Section shall be liberally construed to that end.
- b. For the purpose of conducting any and all elections of the members of this corporation and the Board of Directors, there shall be appointed an Election Board as follows:

- (1) Any election of the members of the corporation: The President shall appoint one member from each of the three districts of the corporation, one member from the Board of Directors and a duly qualified member of the Bar of the State of South Dakota, said member of the Bar of the State of South Dakota to act as Chairman of the Election Board.
  - (2) For an election of the Board of Directors: The President will select two members of the Board of Directors and a duly qualified member of the Bar of the State of South Dakota, said member of the Bar of the State of South Dakota to act as Chairman of the Election Board.
- c. It shall be the duty of the Election Board to supervise and conduct the entire election proceedings of any election including the required notice of election, preparation and distribution of ballots, conduct the nomination and determination of candidates, supervising the marking, filing, and counting of the official ballots or tallies, and the determination of the result of the voting. In the event that the Election Board shall determine that there was a tie vote in any election, they shall so certify and the results of the election shall be recounted as provided for under Section 9 of this Article.
  - d. If, within, five days after any election of the members of this corporation or the Board of Directors any three members of this corporation file with the Officer in charge of the election a petition, duly verified by them, setting forth that they believe that the official returns from such election as to a specified candidate or as to a specified referred or submitted question are erroneous, the votes of such election as to the office or position specified or as to the question specified shall be recounted as provided for under Section 9 of this Article.

Section 9:

- a. Whenever any recount has been requested as authorized under Section 8 of this Article, the President of the Board of Directors, or the Vice-President of the Board of Directors in case the requested recount is in the election of the President, shall immediately appoint a recount board which shall consist of a recount referee, who shall be a duly qualified member of the Bar of the State of South Dakota, and two members each from the three districts of the corporation. If the disputed election is for a position on the Board of Directors, then each candidate shall select one of the members so appointed from his district. If the dispute involves more than two candidates, each candidate shall have the right to designate one member on the recount board. All members of the recount board shall act in good faith and impartially with regard to their powers and duties under this article.
- b. The presiding officer shall within 24 hours from receipt of a request or petition for recount as provided under Section 7 of this Article give notice to the members of the recount board of their appointment to such board and the time and the place of the recount as prescribed in this Article, and, immediately after such appointment, he shall notify all candidates subject to recount of the names of the recount referee and the additional members of the recount board, and the time and place of the recount.
- c. There shall be no compensation or expenses paid to any member of the recount board.
- d. Upon receiving notice that a recount is to be conducted and the appointment of the recount board, the recount board shall convene in the business office of the corporation or a designated alternate location, within 72 hours from receipt of notice of the appointment of the recount board at 10:00 o'clock a.m. and shall proceed with the recount.

- e. All questions arising on such recount shall be determined by majority vote of such board, and at least one member from each district and the referee or a person duly appointed by said referee, must be present at all times.
- f. It shall be the duties of any person or official having custody of the ballot boxes containing the ballots to be recounted to produce the same before such board for the purpose of such recount upon notice so to do the recount referee.
- g. The recount shall proceed as expeditiously as reasonably possible until completed.
- h. Each candidate for any office, nomination, or position involved in any such recount may appear, personally or by a representative, and shall have full opportunity to witness the opening of all ballot boxes and the count of all ballots. If the recount is upon a referred or submitted question, any member of the corporation favoring either side as to such question may be present and represent such side who shall have full opportunity to witness the opening of all ballot boxes and the recount of all ballots.
- i. If any such candidate or any such representative, protests the ruling of such board as to any ballot, such ballot shall be adequately identified by the Board as an exhibit and segregated by the Board as a disputed ballot.
- j. At the conclusion of the recount, the undisputed ballot shall be returned to the ballot box and resealed, and the disputed ballots shall be securely sealed in a separate envelope. The recount board shall make a certificate, signed by at least 60 percent of such Board, setting forth the number of such disputed ballots and adequately identifying the envelope in which the same are sealed.
- k. The certificate as to the result of the recount and the certificate as the disputed ballots shall be returned to the election board and shall be preserved by the secretary of the Board of directors as public records for at least one year after such recount.
- l. When the certified results of the recount has been returned to the election board, the result determined on such recount shall be included in the official canvass in lieu of the result as determined by the official returns as to said disputed election.
- m. The determination, as provided in this section, of a corrected and changed result upon a recount as to any nomination or election or referred or submitted question shall have the effect of superceding and rendering null and void the result as found upon the original canvass.
- n. When a tie vote between candidates is found to exist on the basis of any such recount, and by reason of such tie vote, it cannot be determined who has been nominated or elected, it shall be the duty of the election board to fix a time and place for the drawing of lots by such candidates involved in such tie vote, giving reasonable notice of such time and place to each such candidates, and the winner of such disputed election shall be determined by drawing of lots in the manner directed by such election board, and the certificate or certificates of nomination or election shall be issued accordingly.
- o. The results of the determination of the election made by the above stated recount procedure shall be final and binding upon all parties to any disputed election and shall be appealed from only by a writ of certiorari as provided by SDCL 12-21-47.

**APPENDIX D**  
**ADOPTED 12/14/77**

Article V, Section 1 of the By-laws of the Clay Rural Water System, Inc. shall be amended to read:

This corporation shall be governed by a Board of Directors consisting of nine members to be elected by the members of the corporation at the first annual meeting in 1979 and at each annual meeting thereafter as set forth in Article VIII of these By-laws. Such board shall meet immediately after the adjournment of the annual meeting of the members and organize by electing a President, Vice-President, Secretary and Treasurer from their own number.

**APPENDIX E**  
**ADOPTED 2/14/79**

Article V, Section 1 of the By-laws of the Clay Rural Water System, Inc. shall be amended to read:

This corporation shall be governed by a Board of Directors consisting of nine members to be elected by the members of the corporation at the first annual meeting in 1980 and at each annual meeting thereafter as set forth in Article VIII of these By-laws. Such board shall meet immediately after the adjournment of the annual meeting of the members and organize by electing a President, Vice-President, Secretary and Treasurer from their own number.

**APPENDIX F**  
**ADOPTED 3/28/89**

Article II, Section 2 of the By-laws of the Clay Rural Water System, Inc. shall be amended to read:

The principle office and place of business of this corporation shall be located at Wakonda, State of South Dakota, but the corporation may maintain offices and places of business at other places within or without the State as the Board of Directors may determine.

**APPENDIX G**  
**ADOPTED 3/28/89**

Article VII, Section 4 of the By-laws of the Clay Rural Water System, Inc. shall be amended to read:

Three (3%) percent of the membership shall constitute a quorum for the transaction of business at any meeting. Unless such quorum is present, no business shall be transacted. If, however, such quorum shall not be present at any regular or special meeting, the members present shall have power to adjust the meeting from time to time without notice other than announcement at the meeting, until a quorum is present. Any business may be transacted which might have been transacted at the meeting as originally called.

**APPENDIX H**  
**ADOPTED 3/22/90**

Article VIII, Section 2 of the By-laws of the Clay Rural Water System, Inc. shall be amended to read:

The Board of Directors shall be elected at the regular annual meeting and serve their respective terms until their successors shall be elected and qualified. At the first annual meeting of the members, a director shall be elected from each of the three districts for a one year, two year, and three year term. Thereafter, all directors shall be elected from the members to serve for a term of three years each from their respective districts. Nominations and election of each director shall be made for each district only by members of each respective district. No person shall be eligible or remain a director or to hold any position of trust in the Corporation who is not a member and a bona fide resident in the area served by the Corporation.

**APPENDIX I**  
**ADOPTED 3/14/91**

Article VIII, Section 2 of the By-laws of the Clay Rural Water System, Inc. shall be amended to read:

The Board of Directors shall be elected at the regular annual meeting and serve their respective terms until their successors shall be elected and qualified. At the first annual meeting of the members, a director shall be elected from each of the three districts for a one year, two year, and a three year term. Thereafter, all directors shall be elected from the members to serve for a term of three years from their respective districts. Nominations and election of each director shall be made for each district only by members of each respective district. Before any member may be nominated, they must be present at such District Election or have given written consent, presentable to the Chairman of the Election Board prior to nomination, by a proxy. Only members present at the District Election at the time the Chairman of the Election Board declares nominations closed will be eligible to vote in said election. No person shall be eligible or remain a director or to hold any position of trust in the Corporation who is not a member and a bona fide resident in the area served by the Corporation.

**APPENDIX J**  
**ADOPTED 3/14/91**

Article VIII, Section 8 (b)(1) of the By-laws of the Clay Rural Water System, Inc. shall be amended to read:

Any election of the members of the Corporation: The President shall appoint one member from each of the three districts of the corporation, one member from the Board of Directors and a duly qualified member of the Bar of the State of South Dakota, said member of the Bar of the State of South Dakota to act as chairman of the Election Board. Members of the Election Board shall be eligible to vote in the election they are supervising if they are qualified as a member of that district.

**APPENDIX K**  
**ADOPTED 3/14/91**

Article VIII, Section 8, (b)(2) of the By-laws of the Clay Rural Water System, Inc. shall be amended to read:

For an election of the Board of Directors: The President will select two members of the Board of Directors and a duly qualified member of the Bar of the State of South Dakota, said member of the Bar of the State of South Dakota to act as chairman of the Election Board. Members of the Election Board shall be eligible to vote in the election, they are supervising if they are qualified as a member of the Board of Directors.

**APPENDIX L**  
**ADOPTED 3/14/91**

Article XII, Distribution of Surplus Funds, of the By-laws of the Clay Rural Water System, Inc. shall be deleted:

Section 1. It is not anticipated that there will be any net income. If there should be any, then at the end of the fiscal year, after paying the expenses of the corporation for operation and otherwise, after setting aside reserves for depreciation on all buildings, equipment and office fixtures and such other reserves as the Board of Director's may deem proper and after providing for payments on interest and principal of obligations and amortized debts of the corporation, and after providing for the purchase of proper supplies and equipment, and the net earnings shall be accumulated in a surplus fund for the purpose of replacing, enlarging, extending and repairing the system and property of the corporation and for such other purposes as the Board of Director's may determine to be for the best interests of the corporation, the said surplus fund or

any portion thereof may from time to time at the discretion of the Board of Director's be distributed to the members as provided in the By-laws, on the basis of the assessments and charges made and levied against and paid by such members during the year.

Section 2. Any part or the whole of such appointment may be credited at the discretion of the Board of Director's to the indebtedness of the members, should any exist, and in such case, the member shall be notified in writing of the amount so applied.

**APPENDIX M**  
**ADOPTED 3/23/93**

Article VII, Section 7, of the By-laws of the Clay Rural Water System, Inc. shall be amended to read:

Each member shall be entitled to only one vote upon each matter submitted to a vote at any meeting of the members. Voting by members other than members who are natural persons shall be allowed upon presentation to the Corporation, prior to or upon registration at each member meeting, of satisfactory certification entitling the person presenting the same to vote. At all meetings of the members, all questions shall be decided by a majority of the members voting thereon, except as provided by law or by the Corporations Articles of Incorporation or the By-laws. Members may not cumulate their votes or vote by proxy.

**APPENDIX N**  
**ADOPTED 3/23/93**

Article VIII, Section 2, of the By-laws of the Clay Rural Water System, Inc. shall be amended to read:

The Board of Directors shall be elected at the regular annual meeting and serve their respective terms until their successors shall be elected and qualified. At the first annual meeting of the members, a director shall be elected from each of the three districts for a one year, two year, and three year term. Thereafter, all directors shall be elected from the members to serve for a term of three years each from their respective districts. Nominations and election of each director shall be made for each district only by members of each respective district. Before any member may be nominated, they must be present at such District Election or have given written consent, presentable to the Chairman of the Election Board prior to nomination, by proxy. Only members present at the District Election at the time the Chairman of the Election Board declares nominations closed will be eligible to vote in said election. No person shall be eligible or remain a director or to hold any position of trust in the Corporation who is not a member and a bona fide resident in the area served by the Corporation. Individuals certified to represent members other than natural persons as described in Article VII, Section 7, shall not be eligible to serve on the Board of Directors.

**APPENDIX O**  
**ADOPTED 3/20/97**

Article VII(1) of the By-laws of the Clay Rural Water System, Inc. shall be added to read:

Section1. Regular Meetings. A regular meeting of the Board of Directors shall be held without notice, immediately after, and at the same place as, the annual meeting of the members. A regular meeting of the Board of Directors shall also be held monthly at such time and place in Clay County, South Dakota, as the Board of Directors may provide by resolution. Such regular monthly meeting may be held without notice other than such resolution fixing the time and place thereof.

Section 2. Special Meetings. Special meetings of the Board of Directors may be called by the President or by any three directors and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. The President of the directors calling the meeting shall fix the

time and place, for the holding of the meeting. Special meetings, upon proper notice as otherwise provided in Section 3 may also be held via telephone conference call, without regard to the actual location of the directors at the time of such a telephone conference meeting, if all the directors consent thereto.

Section 3. Notice of Director's Meetings. Written notice of the time, place and purpose of any special meeting of the Board of Directors shall be delivered to each director not less than five days previous thereto either personally or by mail, by or at the direction of the Secretary, or upon a default in duty by the Secretary, by the President or the directors calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the director at his address as it appears on the records of the Corporation, with postage thereon prepaid. The attendance of a director at any meeting of the Board shall constitute a waiver of notice of such meeting unless such attendance shall be for the express purpose of objecting to the transaction of any business, or of one or more items of business, on the ground that the meeting shall not have been lawfully called or convened.

Section 4. Quorum. A majority of the Board of Directors shall constitute a quorum, provided, that if less than such majority of the directors is present at said meeting, a majority of the directors present may adjourn the meeting from time to time; and provided further, that the Secretary shall notify any absent directors of the time and place of such adjourned meeting. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

**APPENDIX P**  
**ADOPTED 2/25/99**

Article VII, Section 4, of the By-laws of the Clay Rural Water System, Inc. shall be amended to read:

Section 4. Twenty members shall constitute a quorum for the transaction of business at any meeting. Unless such quorum is present, no business shall be transacted. If, however, such quorum shall not be present at any regular or special meeting, the members present shall have power to adjust the meeting from time to time without notice other than announcement at the meeting, until a quorum is present. Any business may be transacted which might have been transacted at the meeting as originally called.

**APPENDIX Q**  
**ADOPTED 2/25/99**

Article VIII, Section 6, of the By-laws of the Clay Rural Water System, Inc. shall be amended to read:

Section 6. For the purpose of election of Directors, the System shall be divided into three districts by the Board of Directors. The division of the districts shall be by townships.

**APPENDIX R**  
**ADOPTED 3/17/01**

Article VI, Section 1, Section 2a., 2 b., 2 c., 2d., Section 3, Section 5; Article IX, Section 1a.; Article X, Section 1, Section 3, of the Bylaws of the Clay Rural Water System, Inc. deletes all reference to the issuing of membership certificates.

**APPENDIX S**  
**ADOPTED 3/24/07**

Article VIII, Section 3, of the Bylaws of the Clay Rural Water System, Inc. shall be amended to read:

Section 3. If the office of Director or Officer should become vacant for any cause, the Board of Directors may choose a successor from the members of the District where the vacancy exists, who shall serve to the next regularly scheduled District election. The member elected shall serve for the remainder of the un-expired term as provided in the Bylaws.

**APPENDIX T**  
**ADOPTED 3/29/08**

Article VIII, Section 2, of the Bylaws of the Clay Rural Water System, Inc. shall be amended to read:

Section 2. The Board of Directors shall be elected at the regular annual meeting and serve their respective terms until their successors shall be elected and qualified. At the first annual meeting of the members, a director shall be elected from each of the three districts for a one year, two year, and three year term. Thereafter, all directors shall be elected from the members to serve for a term of three years each from their respective districts. Nominations and election of each director shall be made for each district only by members of each respective district. Before any member may be nominated, they must submit a Notice of Intent to Seek Nomination For Director Position form to the Corporation Office not less than twenty days before the scheduled respective district election. Upon receipt of such Notice of Intent, and having found the same to be in order, the Secretary shall post such Notice of Intent at the Corporation office not less than twenty days prior to the respective district election. The Secretary shall mail with the notice of the district election, at least ten days before the date of the election, a statement of the number of directors to be elected and the names and addresses of the candidates. No nominations from the floor, nor late filed Notices, shall be permitted at any district election wherein a Notice of Intent Form has been filed; in the event no Notice of Intent Forms have been filed, the vacancy shall be filled by the Board of Directors. Only members present at the District Election at the time the Chairman of the Election Board calls the meeting to order will be eligible to vote in said election. No person shall be eligible or remain a director or to hold any position of trust in the Corporation who is not a member and a bona fide resident in the area served by the Corporation. Individuals certified to represent members other than natural persons as described in Article VII Section 7, shall not be eligible to serve on the Board of Directors.

**APPENDIX U**  
**ADOPTED 3/29/08**

Article VIII, Section 8(b)1, of the Bylaws of the Clay Rural Water System, Inc. shall be amended to read:

Section 8(b)1. Any election of the members of the corporation: The President shall appoint one member from each of the three districts of the corporation, one member from the Board of Directors and a duly qualified member of the Bar of the State of South Dakota, said member of the Bar of the State of South Dakota to act as chairman of the Election Board. Members of the Election Board shall be eligible to vote in the election they are supervising if they are qualified as a member of that district. A majority of the Election Board members present shall constitute a quorum.

**APPENDIX V**  
**ADOPTED 3/28/09**

Article VI, Section 1, 2(c), & 5 of the Bylaws of the Clay Rural Water System, Inc. shall be amended to read:

Section 1. The holders of membership must be a user of the System. In order to become a member, the user must have either paid a membership fee or executed a membership transfer form.

Section 2(c). No member of this corporation shall be entitled to more than one vote at meetings of the members or to hold more than one membership in the corporation.

Section 5. In case of the death of a member or if a member ceases to be eligible to hold membership as provided in Section 1, or willfully fails to comply with these By-laws and other requirements, or willfully obstructs the purposes and proper activities of the corporation, the corporation, through the Board of Directors, may elect to terminate their membership. Any member, whose membership is so terminated for cause other than that of ceasing to be eligible, may appeal from the action of the Board of Directors to a vote of the members at the next regular meeting of the members or special meeting of the members called for such purpose.

**APPENDIX W**  
**ADOPTED 7/23/09**

Article V, Section 1 shall be amended to read: This corporation shall be governed by a Board of Directors consisting of nine members to be elected by the members of the corporation at the first annual meeting in 1980 and at each annual meeting thereafter as set forth in Article VIII of these By-laws. Such board shall meet after the adjournment of the annual meeting of the members and organize by electing a President, Vice-President, Secretary and Treasurer from their own number.

Article VII (1) Section 1 shall be amended to read: A regular meeting of the Board of Directors shall also be held monthly at such time and place in Clay or Union County, South Dakota, as the Board of Directors may provide by resolution. Such regular monthly meeting may be held without notice other than such resolution fixing the time and place thereof.

Article VIII, Section 5 shall be amended to read: Directors shall not serve more than four full three year terms.