

PLANNING, LAND USE, AND BUILDING REGULATIONS WITHIN THE ORDERLY ANNEXATION AREA OF SAUK RAPIDS TOWNSHIP

LAND USE (ZONING) REGULATIONS

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SECTION 1. PURPOSE

The Joint Planning Board (hereinafter "Board") wants to guide future land use and development so as to promote a safe, pleasant and economical environment; to preserve certain undeveloped lands, to provide for the wise development, and to promote the public health, safety, order, convenience, and the general welfare; to preserve property values by regulating the use of land, buildings, and structures, including their height, bulk, yard areas and density. Planning, by providing public guides to future action, enables other public and private agencies to plan their activities in harmony with each other. This ordinance is intended to assist in making municipal services less costly through the achievement of a more secure tax base and orderly development. The Board has adopted the Comprehensive Land Use Plan completed by the City of Sauk Rapids in conjunction with the Joint Planning Board. It is the policy of the Board to develop property within the Joint Planning Area in accord with the goals and policies of the Comprehensive Land Use Plan. It is the policy of the Board to prevent the Joint Planning Area from developing without consideration of development within the City of Sauk Rapids. The policy of the Board is to discourage development within the Joint Planning Area unless and until such property is appropriate for annexation to and development within the City of Sauk Rapids. It is anticipated that annexation and development considerations will take into account the Joint Planning Agreements of the City of Sauk Rapids and Sauk Rapids Township in an attempt to maintain orderly and controlled development which does not conflict with the existing development plans of the City of Sauk Rapids nor the desire within the Township to preserve an agricultural and rural character. It is also the policy of the Board to attempt to maintain, as much of the Joint Planning Area as rural and agricultural in character until such time as the property is appropriate for annexation to the City of Sauk Rapids. It is further the policy of the Board to ensure that development does not occur within the Joint Planning Area, which will negatively affect the City's ability to provide municipal services to property within the Joint Planning Area as that property is annexed to the City.

Although a few tracts of land within the Joint Planning Area are currently zoned for non-agricultural uses, it will be the policy of the Board to, except in very unusual circumstances, avoid rezoning property within the Joint Planning Area to a use other than agricultural. For those properties currently zoned for non-agricultural uses, the Board will, if the property is in a reasonable proximity to the City, require that the property be annexed to the City prior to any further development of that property. It is further the policy of the Board to discourage residential development of the Joint Planning Area prior to such property being annexed to the City of Sauk Rapids when municipal services will be available to service the property. It is the policy of the Board to allow residential building only to the extent necessary to service the agricultural property in the Joint Planning Area.

Subd. 1. Other Regulations. It is intended by these regulations to be consistent with and compliment other municipal controls that exist such as Building and Fire codes, Subdivision or Flood Plain Regulations, Official Maps, Comprehensive Plans, transportation, utility, storm water, park, capital improvements or other plans. It is not intended by these regulations to repeal, abrogate, annul, in any way impair, or interfere with existing provisions or other regulations. Where these regulations impose a greater restriction upon the use of land, buildings or structures than is imposed or required by such other existing provisions by law, contract or deed, the provisions of this Ordinance shall prevail and control.

Subd. 2. Purpose and Intent of Adult Use Zoning Regulations. The purpose and intent of the adult use regulations set forth in this ordinance is to serve a substantial government interest by attempting to preserve the quality of residential and retail areas, protect retail trade, curtail the depression of property values, restrain increased criminal activity and slow the spread of sexually transmitted diseases. In addition, the purpose of the adult use regulations is to protect the ability of the Joint Planning Board to protect the highly delicate transitional area located in the Joint Planning Area and to ensure the orderly development of areas about to be annexed into the City of Sauk Rapids. The protections to be afforded by this Ordinance are intended to protect not only currently developed property but also future development which is planned within the Joint Planning Area.

Adult Use Establishments, as defined by the Zoning Ordinance, because of their very nature, are recognized as having serious objectionable operational characteristics that have a deleterious effect upon the use and enjoyment of adjacent areas. These secondary effects are especially evident where such uses are concentrated. The secondary effects associated with adult uses include an increased level of criminal activity, increased risk of exposure to sexually transmitted diseases, depression of property values and significant change in the character of surrounding neighborhoods.

However, it is recognized that such regulations cannot de facto approach prohibition. Otherwise, a protected form of expression would vanish. The adult use regulations set forth in the Zoning Ordinance represent a balancing of competing interests: reduction of objectionable secondary effects through the regulation of adult uses versus the protected rights of the owners, operators, performers and patrons of those adult uses.

One of the ordinance's objectives is to disperse the adult uses through separation requirements from another adult uses and from other significantly incompatible uses. The ordinance allows adult uses only in I-1, Industrial Districts in the Joint Planning Area; therefore, areas where adult uses will be permitted are located throughout the Joint Planning Area, the City of Sauk Rapids, Sauk Rapids Township, and Benton County and provide opportunity or sites with good visibility and access to major streets, roads and highways.

All Adult Use Establishments legally existing prior to May 14, 1997 became illegal non-conforming uses as of May 1, 1998. Such uses are not grandfathered in unless they met the requirements of this Ordinance.

SECTION 2. RULES AND DEFINITIONS.

Subd. 1. Rules. The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

- A. The singular number includes the plural and the plural includes the singular.
- B. The present tense includes the past and future tenses and the future tense includes the present.
- C. The word “shall” is mandatory, while the word “may” is permissive.

Subd. 2. Definitions. For the purpose of this Ordinance, unless defined differently below terms and words shall be defined by Section 10.02 of the Code of the City of Sauk Rapids and such Section is incorporated herein by reference. In the event words defined in this Subdivision, differ from those in Section 10.02 of the Code of the City of Sauk Rapids this Ordinance shall govern. In the event that neither this Ordinance nor Section 10.02 of the Code of the City of Sauk Rapids provide the definition of a term used in this Ordinance, the definition, if any, provided in Benton County Code Section 3.0 shall apply and shall be incorporated herein by reference to the extent such definition is not inconsistent with this Ordinance and Section 10.02 of the Code of the City of Sauk Rapids. For purposes of this Ordinance, the following definitions shall apply:

Agricultural Use: The use of land for the growing and/or production and processing for local use of field crops, livestock and livestock products for the production of income including but not limited to the following:

- a. field crops, including but not limited to: barley, soybeans, corn, hay, oats, potatoes, rye, sorghum, sunflowers, and wheat and tree farming.
- b. livestock, including but not limited to: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including dogs, cats, ponies, deer, rabbits and mink.
- c. livestock products, including but not limited to: milk, butter, cheese, eggs, meat, fur, and honey.

*The definition includes sale of raw products, but not processing or sale of processed goods. This definition does not include animal feedlots, which are defined and regulated separately.

Accessory Building: A subordinate building, structure or a portion of the main building, the use of which is incidental to that of the main building or to the use of the premises.

Accessory Uses: A use subordinate to the purpose for which the land is zoned. Accessory uses may only occur in conjunction with a principal use and on the same lot as the principal use.

Adult Arcade: An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Adult Bookstore: An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2)

instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities.

Adult Cabaret: A nightclub, bar restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Adult Motion Picture Theater: An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

Adult Theater: A theater, concert hall, auditorium, or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.

Adult Use Establishments: Adult use establishments include, but are not limited to: adult arcade adult bookstore, adult cabaret, adult motion picture theater, adult theater, or sexual encounter establishment.

Animal Unit: Means a unit of measure used to compare differences in the production of animal manures that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer. For purposes of this Ordinance, the following Minnesota Statute 116.06 Subd. 4a. equivalents shall apply:

- a. one mature dairy cow, whether milked or dry:
 1. over 1,000 pounds, 1.4 animal units; or
 2. under 1,000 pounds, 1.0 animal unit;
- b. (2) one cow and calf pair, 1.2 units;
- c. one calf, 0.2 unit;
- d. one slaughter steer, 1.0 animal unit;
- e. head of feeder cattle or heifer, 0.7 unit;
- f. one head of swine:
 1. over 300 pounds, 0.4 animal unit;
 2. between 55 pounds and 300 pounds, 0.3 animal unit; and
 3. under 55 pounds, 0.05 animal unit;
- g. one horse, 1.0 animal unit;
- h. one sheep or lamb, 0.1 animal unit;
- i. one chicken:
 1. one laying hen or broiler, if the facility has a liquid manure system, 0.033 animal unit; or
 2. one chicken if the facility has a dry manure system:
 - i. over five pounds, 0.005 animal unit; or
 - ii. under five pounds, 0.003 animal unit;
- j. one turkey:
 1. over five pounds, 0.018 animal unit; or
 2. under five pounds, 0.005 animal unit;
- k. one duck, 0.01 animal unit; and

1. for animals not listed in clauses (1) to (8), the number of animal units is the average weight of the animal in pounds divided by 1,000 pounds.

Building: Any structure used or intended for supporting or sheltering any use or occupancy.

Building Height: The vertical distance from the mean ground level at the building line and the highest point of the roof surface on a flat roof or to the highest gable on a pitched or hip roof.

Building Line: A line measured across the width or length of the lot at the point where the main structure is placed in accordance with setback provisions.

Building, Principal: A non-accessory building in which a principal use permitted in a zoning district is conducted.

City: Means the City of Sauk Rapids, Minnesota.

Day Care Facility: Any facility, public or private, which for gain or otherwise regularly provides one (1) or more persons with care, training or supervision on a regular basis for periods of less than 24 hours per day.

Dwelling: Any building or portion thereof, which is designed or used exclusively for residential occupancy, but not including hotels, motels, lodging or boarding houses.

Dwelling Unit: Any building containing living quarters including sleeping, eating, cooking, and sanitation for a single family.

Essential Services: Public roads, underground or overhead gas, electrical, steam or water transmission or distribution systems; collection, communication, supply or disposal systems including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants or other similar equipment and accessories in conjunction therewith; but not including buildings.

Extractive Use: The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.

Family: Any of the following living in a single dwelling unit:

1. An individual; or
2. Two (2) or more persons related by blood, marriage, or adoption and any unrelated persons who reside therein as though a member of the family; or
3. A group of not more than five persons maintaining a single household.

Farm: A parcel of land containing at least forty (40) acres (or consisting of at least one quarter-quarter section) or two or more abutting parcels under the same ownership having an area of forty (40) acres or more. For the purpose of this ordinance, abutting parcels in common ownership (which meet the above definition of a farm) shall be considered to be only one farm and shall qualify for only one farmstead residence (except as hereinafter provided) no matter how many multiples of forty (40) acres or quarter-quarter sections are contained within the abutting parcels in common ownership.

Farmstead: The buildings and adjacent service areas of a farm, including lawns, windbreak and feedlot area.

Feedlot: A fenced land area, building, or combination of fenced land areas and buildings intended for the confined feeding, breeding, raising, or holding of at least ten animal units and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these rules, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered feedlots. A feedlot does not cease to be a feedlot merely because confined feeding, breeding, raising or holding of animals is not actually taking place

at a given time, however, such areas, buildings or combinations which have not been used for confined breeding, raising or holding of animals for a five-year period shall not be considered a feedlot until such use resumes.

Field Windbreak: A strip or belt of trees or shrubs more than one hundred (100) feet in length, fifty (50) feet or less in width, adjacent to or within a field.

Full Time on the Farm: Someone employed full time through at least three of the four seasons of the year.

Garage: An accessory building or part of the principal building designed and used for the storage of motor vehicles owned/leased by the occupants of the principal structure. Garages shall only be used for vehicle, equipment storage, and to house boats, trailers, and recreations vehicles.

Hardship: Means the property in question cannot be put to a reasonable use under the conditions of the official controls, and the plight of the landowner is due to circumstances unique to his/her land and not created by the landowner(s). Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under terms of the official controls.

Joint Planning Area: Means the orderly annexation areas defined in the Joint Planning Board Agreements and Resolutions adopted by the City and the Township on or about June 1, 1987 and on or about June 23, 1997.

Kennel, Animal: A place where 3 or more of any single type of domestic animal over 4 months of age are owned, boarded, bred, or offered for sale.

Livestock Waste Storage Facility: A diked enclosure, pit, or structure for temporary disposal or storage of livestock wastes.

Lot: Means a parcel of land designated by a platted lot and block number, metes and bounds description, registered land survey, auditor's plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation thereof.

Lot Area: The area of a horizontal plane within the lot lines.

Lot, Corner: The lot situated at the junction of, and abutting on two (2) or more streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which does not exceed 135 degrees.

Lot Depth: The mean horizontal distance between the front and rear lines of a lot.

Lot Line: A property boundary line of any tract held in single ownership, except where such line extends into a public street or alley, then the lot line shall be at the edge of the street or alley.

Lot Line, Front: The boundary line of a lot abutting a street. On a corner lot, the shortest street lot line shall be the front lot line.

Lot Line, Rear: The boundary line most remote from and most nearly parallel to the front lot line.

Lot Line, Side: A boundary line other than the front lot line or rear lot line.

Lot of Record: A Lot which is identified on the date of the adoption of this Ordinance as having a separate tax parcel identification number. (January 1, 2000)

Lot Width: The mean horizontal distance between the side lot lines of a lot.

Nursery, Landscape: A business growing and selling trees, flowering and decorative plants and shrubs.

Open Sales: Private land devoted to the display of goods for sale, rent, lease or trade where

such goods are not enclosed in a building and which does not have a permanent all weather office where business is conducted which has fixed hours of opening and closing throughout the year.

Ordinary High Water Mark: A mark delineating the highest water level, which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

Permitted Use: A use lawfully established within a particular zoning district provided it conforms to all of the requirements and performance standards of that district.

Persons: An individual, firm, partnership, trustee, association, corporation, or organization of any kind.

Rezoning: The changing of any parcel or parcels from one zoning district to another through procedures established by this Ordinance.

Right-Of-Way: Land dedicated and publicly owned, in fee or by easement, for use as a street, alley, or walkway.

School: As used in this Ordinance, shall mean an accredited institution for learning, providing primary or secondary instructions.

Sensitive Resource Management: the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

Setback: The shortest horizontal distance between any part of the structure and the lot line.

Sewage Treatment System: A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Appendix A.

Sexual Encounter Establishment: An establishment other than a hotel, motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, or consort in connections with specified sexual activities or the expose of specified anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in sexual therapy.

Specified Anatomical Areas: As used herein, specified anatomical areas means and includes any of the following: 1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or 2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: As herein, specified sexual activities means and includes any of the following: 1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; 2) sex acts, actual or simulated, including intercourse, oral copulation, or sodomy; 3) masturbation, actual or simulated; or 4) excretory functions as part of or in connection with any of the activities set forth in subdivisions 1 through 3 of this subsection.

Structural Alteration: Any change in a building or structure affecting its supporting members, including but not limited to, bearing walls, girders, roof, and all exterior walls. Incidental repairs such as re-roofing and re-siding shall not be considered as structural alteration.

Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Tower: Any ground or roof mounted pole, spire, structure, or combination thereof taller than fifteen (15) feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

Use: The purpose for which land is zoned or a building is arranged, designed, or intended, or for which land or a building is or may be occupied or maintained.

Variance: Any modification or variation of official controls where it is determined that, because of a hardship, strict enforcement of the official controls is impractical. A modification of allowable uses within a zoning district shall not be considered a variance. (See Hardship definition above)

Yard: An open space on a lot which is unoccupied and unobstructed from its lowest elevation upward, except as otherwise permitted.

Yard, Front: That portion of the yard located between the front lot line, the side lot lines, and the front building line.

Yard, Rear: That portion of the yard located between the rear building line, side lot lines, and the rear lot line.

Yard, Side: That portion of the yard located between the front and rear yards and between the side building lines and side lot lines.

SECTION 3. NON-CONFORMING USES AND STRUCTURES.

Subd. 1. Intent. Within the districts established by this Ordinance or by amendments, there exist structures and uses of land lawful before these or preceding regulations were passed but presently prohibited, regulated, or restricted under the terms of this Ordinance or its future amendments; it is the intent of this Ordinance to permit the non-conformities to continue until they are removed but not to encourage their continuance. Such uses are declared by this Ordinance to be incompatible with permitted structures and uses in the districts involved. It is the further intent of this Ordinance that non-conforming uses shall not be enlarged upon, extended or expanded, nor be used for grounds for adding other structures for uses prohibited in the same district.

Subd. 2. Accessory Use or Construction. The non-conforming use of land or structures either singly or in combination shall not be extended or enlarged by the attachment of, or erection of, any accessory buildings or structures.

Subd. 3. Non-Conforming Uses of Structures. If the use of a structure, or of a structure and premise in combination, was lawful at the time of the adoption of this Ordinance as enacted or amended but is not allowed under the terms of this Ordinance as enacted or amended, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this Ordinance, in the district in which it is located, shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. Any non-conforming use may be extended throughout any part of a building which is specifically arranged or designed for such purposes, but no such use shall be extended to occupy any land outside such buildings.
- C. If no structural alterations are made to any structure or premises involving a non-

conforming use, the use may be changed to another nonconforming use provided that the Board, either by general rule or by making findings in the specific case, find that the proposed use is as appropriate or more appropriate to the district. In permitting such change, the Board may require appropriate conditions and safeguards.

- D. Any structure, or structure and land combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.
- E. Where a non-conforming use status applies to a structure, or structure and premise in combination, the removal or destruction of 50% or more of the structure shall eliminate the non-conforming status of the land and/or building, and the structure shall not be reconstructed as a non-conforming use.

Subd. 4. Repairs and Maintenance. On any building devoted in whole or in part to any non-conforming use, normal maintenance may be performed, including but not limited to, non-bearing walls, fixtures, wiring, and plumbing. No load-bearing walls may be replaced nor shall the cubic content of the building be increased.

Subd. 5. Non-Conforming Structures. Where a structure exists and was lawful at the time of its construction but could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, setbacks or other characteristics of the structure or its location on the lot, such structure may remain and continue to be used so long as it remains otherwise lawful, subject to the following provisions:

- A. No structure may be enlarged or altered in a way which increases its non-conformity.
- B. Any building or structure which is damaged by fire, collapse, explosion or act of God, may be rebuilt to its original size and in its original location, provided however, that the expenses of such work does not exceed 50% of the fair market value of the building at the time such damage occurred.
- C. Any otherwise lawful structure which is rendered nonconforming solely by reasons of a change in the setback requirements from roads/road right-of-ways or the expansion of a public road right-of-way through eminent domain, purchase or other permanent governmental action may be extended, expanded, enlarged or structurally altered; provided, that any extension, expansion or alteration shall not encroach upon the right-of-way to any greater extent than the existing structure and must comply with all other applicable setback restrictions and requirements of this Ordinance.

Subd. 6. Non-Conforming Uses of Land. Where uses of land exist and were lawful at the time of the adoption of this Ordinance as enacted or amended but are not permitted under the terms of this Ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following:

- A. No such non-conforming use shall be enlarged or increased, nor extended to

occupy a greater area of land.

- B. If any non-conforming use of land ceases, for any reason, for a period of more than 12 consecutive months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

Subd. 7. Abandonment. A non-conforming use of a building or premises which has been abandoned shall not thereafter be returned to such non-conforming use. A non-conforming use shall be presumed abandoned when all or substantially all of the equipment and furnishings have been removed from the premises and have not been replaced or the use ceases, for any reason, for a period of more than 12 consecutive months.

Subd. 8. Uses Under Conditional Permit. Any use for which a conditional permit has been issued as provided in this Ordinance shall not be deemed as a non-conforming use, but shall without further action be considered a conforming use in such district.

Subd. 9. Unsafe Structures. Nothing in this Ordinance will prevent the strengthening or restoring to a safe condition any portion of a building or structure declared unsafe by the Building Inspector. The exception shall be non-conforming buildings and structures, which shall be demolished upon declaration of the Building Inspector that they are no longer safe for habitation in accord with state law.

SECTION 4. ESTABLISHMENTS OF DISTRICTS.

Subd. 1. Districts. For the purpose of this Ordinance, the Joint Planning Area is hereby divided into districts as follows:

A. Agricultural District.

A-1 Agricultural

B. Residential Districts.

R-1 Single Family Residence

R-2 Two Family Residence

R-3 Multiple Family Residence

R-4 Elderly Housing

C. Commercial Districts.

C-1 Limited Commercial

C-2 Commercial

C-3 Highway Business Commercial

D. Industrial District.

I-1 Industrial

E. Shoreland Overlay District.

F. Planned Unit Development (PUD).

Subd. 2. Official Zoning Map. The location and boundaries of the districts established by this Ordinance are hereby set forth on the map entitled “Official Zoning Map” of the Sauk Rapids Joint Planning Board dated November 24, 1999. The Official Zoning Map shall be verified by the signature of the Chair of the Board under the following words: “This is to certify that this Official Map, referred in the Zoning Ordinance of the Sauk Rapids Joint Planning Board.” Regardless of the existence of the printed copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the conference room of Sauk Rapids City Hall, shall be the final authority as to the current zoning status of land and platted areas, buildings and other structures in the Joint Planning Area.

Subd. 3. Enforcement of Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Board may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map, but no such correction shall have the effect of amending zoning requirements or any subsequent amendment thereof without due process. The new Official Zoning Map shall be verified in the same manner described in Subdivision 2 of this section of the Ordinance.

Subd. 4. Designated Zoning. All of the lands in the Joint Planning Area are shown within the district lines on the Official Zoning Map and are hereby zoned as indicated and shown in their respective district boundaries on the Official Zoning Map.

Subd. 5. Zoning Map to be Part of Regulations. The Official Zoning Map together with everything shown thereon and all amendments thereto shall be as much a part of this Ordinance as though fully set forth and described herein.

Subd. 6. Scale of Map. The Official Zoning Map shall be at the scale of one (1) inch on the map equals three hundred (300) feet on the ground or as set by resolution of the Board from time to time.

Subd. 7. Maintaining and Amending the Official Map. It shall be the responsibility of the Secretary to maintain the Official Zoning Map. The Secretary shall make or cause to have made any corrections or amendments to said Map after all of the procedures outlined in this Ordinance for the making of such revisions or amendments have been followed by the Board. Amendments to the Official Zoning Map shall be recorded on said map within thirty (30) days after adoption by the Board. The Official Zoning Map shall be available for public inspection at all reasonable times during which Sauk Rapids City Hall is customarily open.

SECTION 5. DISTRICT BOUNDARIES.

Subd. 1. Application. The boundaries of any of the established districts, as shown on the Official Zoning Map, shall be defined as follows:

Subd. 2. Boundaries of Public Right-of-Way. Where boundaries are indicated as approximately following the centerline of streets, alleys, or of highways, such centerline shall

be interpreted to be district boundaries.

Subd. 3. Boundaries on Shoreland. Where the boundary of a district ending at the corporate limits of the Orderly Annexation area follows a river, said boundary line shall be construed to be at the jurisdictional limits of the Joint Planning Area unless otherwise indicated.

Subd. 4. Public or Institutional Property. Any construction, modifications, or changes to any areas shown on the Official Zoning Map as a park, school, church, or cemetery shall be subject to Board approval, after review of the site and building plans. Such property shall convert to A-1 zoning after discontinuance for park, school, church, or cemetery purposes.

Subd. 5. Vacated Property. Whenever any street, alley, or other public way is vacated, the zoning district adjoining such vacated street, alley or public way shall be coincidentally extended to the center of such vacated area, and all areas included therein shall be then and henceforth subject to all regulations of the extended district.

Subd. 6. Boundaries on Lot Lines. Boundaries indicated as approximately following lot lines shall be interpreted as following such lot lines.

Subd. 7. Boundaries on Joint Planning Area. Boundaries indicated as approximately following the limits of the Joint Planning Area shall be interpreted as following the limits of the Joint Planning Area.

Subd. 8. Transitional Zoning (Lots in Two Districts). Where a district boundary line, as established in this Ordinance, or as shown on the Official Zoning Map, divides a platted lot or parcel in single ownership and of record, the use and other requirements thereon applying to the more restricted portion of such lot shall be considered as extending to the entire lot or parcel.

SECTION 6. APPLICATION OF DISTRICT REGULATIONS.

Subd. 1. General Application. The regulations set by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

Subd. 2. Conformity of Building and Land. No building, structure, or land shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless it is in conformity with all the regulations herein specified for the district in which it is located.

Subd. 3. Conformity of Open Spaces. No part of a yard or other space or off-street parking or loading space required in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard or open space similarly required for any other building except as provided in Subdivision 5 of this Section.

Subd. 4. Yards and Lots. No yards or lots shall be reduced in dimension or area below the minimum requirement set forth herein. Yards or lots created prior to this Zoning Ordinance

shall be grand fathered and allowed to continue.

Subd. 5. Obstruction of View. On any corner lot, no wall, fence, or structure shall be erected or altered and no hedge, shrubs, or trees maintained or allowed to obscure the view which may cause a danger to traffic or pedestrians.

Subd. 6. Exceptions.

- A. Height limitations as set forth in this Ordinance shall not apply to church spires, cupolas, and water towers, unless the Board determines such construction might be dangerous or in other ways detrimental to surrounding property.
- B. The following shall not be considered an encroachment on setback requirements: chimneys, flues, belt courses, leaders, sills, pilasters, lintels, cornices, eaves, steps and gutters; to the extent that said item does not project more than three (3) feet from the structure.

Subd. 7. Building Relocation.

- A. No building shall be moved which is declared by the Building Inspector as being unsafe or dilapidated.
- B. Each relocation of a building having more than three hundred fifty (350) square feet shall require a permit from the Board and all such buildings shall conform with, and be situated in, a properly zoned area in accordance with all of the provisions of this Ordinance and the Building Code.

Subd. 8. Conformance with Street Plan. No structure may be placed in such a way as to interfere with the future construction of streets, roads, or alleys as shown on the Board's Street Plan; as such, plan exists or is adopted in the future.

SECTION 7. AGRICULTURAL DISTRICT, A-1.

Subd. 1. Permitted Uses. The following are permitted uses in an A-1, Agricultural District:

- A. Farming, general and dairy, providing animal unit density is not greater than three (3) units per acre
- B. Agricultural land uses
- C. Feedlots as permitted under Appendix C
- D. One farmstead residence per farm
- E. Horticultural uses such as tree farms
- F. Nurseries\Greenhouses (wholesale & growers)
- G. Essential services and necessary appurtenant structures as permitted under Section 15
- H. Cemeteries
- I. Residential Program Facilities with a licensed capacity of six (6) or fewer Persons; Non-residential Program Facilities with a licensed capacity of twelve (12) or fewer persons; Licensed Group Family Daycare Facilities serving fourteen (14) or fewer children (all as provided for and limited to the extent required by Minnesota Statutes)
- J. An existing single dwelling which was constructed or placed as a permitted use on a farm at least five (5) years prior to the date of an application under this

subsection, may be divided from such farm and continue as a single family dwelling as a permitted use if it meets the following requirements:

1. The dwelling and accessory buildings are retained on a minimum size lot of not less than 1.5 acres, abutting an existing public road.
2. The lot shall have a minimum width of two-hundred fifty (250) feet abutting a public road, and a minimum depth of two hundred fifty (250) feet.
3. A legal description of the property being divided from the farm is filed with the Board Secretary prior to recording the deed in the Benton County Recorder's Office.
4. Any further dwelling on the farm or quarter-quarter section will be a conditional use, meeting the criteria under Subd. 3 of this Section of the Ordinance.

Subd. 2. Permitted Accessory Uses:

- A. Private garages, parking spaces, carports
- B. Decorative landscaping features
- C. Private swimming pools and tennis courts
- D. Temporary buildings located for purposes of construction on the premises for a period of time not to exceed normal, necessary construction time
- E. Roadside stands for sale of home occupations or horticulture products, provided off-street parking is available
- F. Signs (Subject to Section 10.16 of the City of Sauk Rapids Ordinance Code)

Subd. 3. Conditional Uses:

- A. Single family dwellings, including earth sheltered homes and one-family manufactured homes built in conformance with Minnesota Statutes Chapter 327.31-24 (such residences may only be located at a density of 1 per 30 acres unless located on a Lot of Record). In addition to meeting the other requirements for the issuance of a conditional use permit the dwelling must also meet the following requirements:
 1. Except for a dwelling located on a Lot of Record, the dwelling must be located on a parcel at least 30 acres in size or on a parcel smaller than 30 acres with contiguous real estate set aside so that the density is restricted to one dwelling per 30 acres.
 2. The set aside parcel, if any, must, at a minimum, be (i) contiguous to the tract upon which the dwelling will be constructed, (ii) square or rectangle in shape, (iii) of a depth of no more than 1.5 times its width, (iv) of a width which is no more than 1.5 times its depth, and (v) restricted by a recorded covenant running in favor of the Joint Planning Board (forms to be provided by the Board) indicating that no construction may occur on the set aside parcel until such time as the property has been annexed into the City of Sauk Rapids and until municipal services are available to serve the property.
 3. The dwelling must be placed in a location that will ensure that the interference with the present or future agricultural use of the parcel(s) is limited.
 4. The dwelling must be placed in a location that will ensure that the property is not a practical or economic impediment to the future extension of municipal

services.

- B. Offices which are accessory to and related to a permitted use
- C. Churches
- D. Golf courses with club houses
- E. Towers (subject to Section 10.15A of the City of Sauk Rapids Ordinance Code)
- F. Government buildings and structures including city owned compost facilities
- G. Nurseries/Greenhouses (retail)
- H. Historic sites and areas
- I. Kennels
- J. Land reclamation and mining (subject to Section 14)
- K. Agricultural product (such as seed) sales which are accessory to an existing and an ongoing farming operation
- L. Feedlots and Manure Storage Facilities (subject to Appendix C)
- M. Livestock waste storage facilities (subject to Appendix C)
- N. Mini storage (self-service storage facility)
- O. Schools (minimum parcel size of five (5) acres with fifty (50) foot building setbacks)
- P. Small animal and restricted livestock farming
- Q. Warehousing
- R. A dwelling which may be a manufactured home, in addition to the one permitted farmstead residence, if used to house persons employed full-time on the farm, and if the need for additional help and additional housing to support and carry on the principal use has been established. Said dwelling must be placed on the building site on which the farmstead residence is located.
- S. A dwelling, which may be a manufactured home, for the farm operator; provided the property owner is retired from the operation of the farm and continues to reside in the farmstead residence. Said dwelling must be placed on the building site on which the farmstead residence is located.
- T. A dwelling, which may be a manufactured home, for a person or persons who provide supportive care to the property owner when such care is required due to the property owner's health, age or infirmity. Said dwelling must be placed on the building site on which the farmstead residence is located.
- U. Uses existing as of the date of this Ordinance will be considered conditional uses as to the specific parcel on which they are located as of the date of the adoption of this Ordinance, and such uses will be treated as if a conditional use permit has already been issued. These existing uses will, however, require a conditional use permit before any expansion, alteration, rebuilding, enlargement, or intensification of the use.

Subd. 4. Lot Area, Lot Width, and Yard Requirements: The following minimum requirements shall apply to all lots:

- A. Lot Area. The minimum lot area for a "permitted" farmstead dwelling is forty (40) acres. The minimum lot area for a "conditional use" single family dwelling will be determined by the septic system requirements, the need to meet the density requirements of Subdivision 1 of this Section 7, and the need to meet the other requirements of this Subdivision 4 (i.e. lot width, depth and setbacks).

Notwithstanding anything in this paragraph to the contrary, for purposes of the construction of a single family dwelling as a conditional use, Lots of Record are exempt from the lot area requirements of this paragraph; however, all other requirements of Section 7 Subdivision 4 will be applicable.

- B. Lot Width and Depth. The minimum lot width shall be two hundred fifty (250) feet abutting a public road and a minimum depth of not less than two hundred fifty (250) feet for all lots upon which single-family dwellings and farmstead dwellings will be constructed.
- C. Setbacks.

ALL STRUCTURES:

Abutting a public roadway 65 feet minimum

RESIDENTIAL STRUCTURES:

Side Yard or Rear Yard Abutting Land zoned A-1 80 feet minimum

Side Yard Abutting Land zoned R - Residential 15 feet minimum

Rear Yard Abutting Land zoned R - Residential 30 feet minimum

STRUCTURES HOUSING LIVESTOCK

Side Yard or Rear Yard 80 feet minimum

OTHER STRUCTURES:

Side Yard 15 feet minimum

Rear Yard 30 feet minimum

SETBACKS BETWEEN SINGLE FAMILY RESIDENCES AND AGRICULTURAL STRUCTURES

No single family non-farmstead dwelling shall be located within five hundred (500) feet of structures located on land employed and engaged in agricultural endeavors, and no structure located on land employed and engaged in agricultural endeavors shall be located within five hundred (500) feet of a single family non-farmstead dwelling.

SECTION 8. C-3 HIGHWAY BUSINESS DISTRICT

Subd. 1. Intent. The Highway Business District is intended to control the use and development of land and improvements by creating a mixed land use district near and adjacent to the Minnesota State Highway 23 and Highway 10 corridor in the City of Sauk Rapids and ~~Minden~~ Sauk Rapids Township. This shall be done by allowing for a mixture of land uses and by establishing stringent standards for development. This section shall be administered in a manner that will encourage and promote high-value development in a manner similar to a planned unit development, taking full advantage of the highway location. It is also the purpose of this District that a pleasant, attractive, and aesthetically pleasing environment be developed.

Subd. 2. Permitted Uses. The following uses are permitted:

- A. Office buildings, office complexes, offices or studios of business, professional and

service occupations such as an accountant, broker, engineer, insurance adjuster, interior decorator, lawyer, physician, (including medical and dental clinics and laboratories), photographer, realtor and chiropractor.

- B. Restaurants, except drive-through restaurants
- C. Funeral Homes
- D. Churches, chapels, temples, and synagogues
- E. Veterinary clinics
- F. Other institutions providing health care
- G. Farmers Market for the sale of produce only. Notification and the submittal of a plan to the Joint Planning Board is required. (Plan must indicate number of table or stands, ingress/egress, parking waste disposal, proposed signage, distance to surrounding properties and road right-of-way, and any other information reasonable required.

Subd. 3. Permitted Accessory Uses. The following uses shall be permitted as an accessory use in the Highway 23/10 Business District and subject to all the requirements of this section:

- A. Commercial or business building for a use accessory to the principal use, not to exceed 30% percent of the size of principal structure.
- B. Signs, which meet the criteria of Section 10.16 of the City Ordinance. Subdivision 10 of that section will apply to this District.
- C. Temporary buildings for construction purposed for a period not to exceed construction but in no event exceeding one year.
- D. Off-street loading and parking areas, subject to applicable section(s) of this Ordinance.
- E. Fences, landscaping

Subd. 4. Uses by Conditional Permits. The following uses shall require a Conditional Use Permit based on the procedures set forth in Chapter 10 of the Sauk Rapids Zoning Ordinance:

- A. Office warehousing
- B. Grocery stores/supermarkets
- C. Nurseries
- D. Lawn and garden temporary sales area (Interim Use Permit)
- E. Lumber yards and home improvement retail centers
- F. New or used auto dealerships, sale, services, and repair of travel trailers, marine equipment, motor homes, recreational equipment, motor vehicles, farm or construction vehicles/equipment. The outside storage of any parts or wrecked vehicles or equipment is not allowed.
- G. Stone building material sales and service
- H. Radio and television shops
 - I. Appliance repair shops
 - J. Appliance show rooms and sales including furniture and carpet sales
- K. Movie theaters
- L. Places of amusement and recreation such as bowling alleys, swimming pools, and skating rinks
- M. Clubs and lodges
- N. Hotels
- O. Motels
- P. Taverns

- Q. Drive-through and convenience food establishments, provided that an internal site pedestrian circulation system shall be defined and appropriate provisions made to protect such areas from encroachments by parked cars or moving vehicles.
- R. Commercial car washes (drive-through, self-service, and mechanical) provided that stacking space is constructed, subject to approval by the City Engineer, to accommodate that number of vehicles which can be washed during a maximum thirty (30) minute period.
- S. Convenience store with gasoline, provided that:
- 1) The sale of food item is in compliance with state and county standards and subject to the approval of a Health Inspector who shall provide specific written sanitary requirements for each proposed sale location.
 - 2) The approximate area and location devoted to non-automotive merchandise sales shall be specified in general terms in the application.
 - 3) Motor fuel facilities are installed in accordance with state standards. Adequate space shall be provided to access gas pumps and allow maneuverability around the pumps. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations minimize conflict with circulation, access, and other activities on the site.
 - 4) Wherever fuel pumps are to be installed, pump island shall be installed.
 - 5) A protective canopy located over the pump island(s) may be an accessory structure on the property however adequate visibility both on and off site shall be maintained.
 - 6) An internal site pedestrian circulation system shall be defined and appropriate provisions made to protect such areas from encroachments by parked cars or moving vehicles.
- T. Postal stations
- U. Uses determined to be of a similar nature as those permitted under Subd. 1, upon a finding that the uses will not be detrimental to the health, safety, and welfare of the City, and that the use is consistent with the stated intent of the zone as contained in Subd. 1.

Subd. 5. Conditions Applicable to All Conditional Use Permits. When considering Conditional Use Permits, the Joint Planning Board shall use the criteria established in Section 10.17 of the City Code. In addition, the following criteria shall also be considered:

- A. When abutting a residential use in a residential use district, the property is adequately screened and landscaped.
- B. Parking areas shall be screened from the view of abutting residential districts.
- C. Vehicular access points shall be limited, shall create minimal conflict with through traffic movements, shall comply with all appropriate Sections of this Ordinance as may be amended and shall be subject to the approval of the City Engineer.
- D. Provisions are made to control and reduce noise in accordance with MPCA standards.
- E. The entire site other than that taken up by a building, structure, or plantings shall be surfaced so as to control dust subject to the approval of the City Engineer.
- F. The entire area shall have a drainage system subject to the approval of the City Engineer.
- G. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area to cause impairment in property values or

constitute a blighting influence within a reasonable distance of the lot.

H. All outdoor storage shall be completely screened from view.

Subd. 6. Area, Height, Frontage, and Yard Requirements. The following minimum requirements shall be observed on all lots:

A. Setbacks. As part of the site plan review, setbacks will be established for each individual development by the Board, subject to the following minimum standards which may be increased upon site plan and/or Conditional Use Permit review:

- 1) Minimum lot size shall be 0.50 acres
- 2) The front yard setback shall be 30 feet
- 3) The side yard setback shall be 15 feet
- 4) The rear yard setback shall be 25 feet
- 5) The setback to an R-1 or R-2 Residential District shall be 30 feet
- 6) No yard bordering upon an R-1 or R-2 Residential use shall be used for storage, loading, unloading or similar activities unless there is an additional 20 feet of yard adjacent to the lot line, properly screened by plantings, walls or fencing. The additional space must be used for green spaces, and not parking, loading, or storage.
- 7) No structure or building shall exceed 35 feet above grade
- 8) The floor-area-ratio shall not exceed 0.40, which means that 20% of the lot area may be used for floor areas of all building on the lot. This number shall not include parking areas.

B. Site Plan. The application for a building permit shall be accompanied by a complete site plan showing the proposed use of the property. The plan shall show enclosed waste disposal, utilities, drainage, ingress and egress, parking, landscaping, screening, snow storage areas, lighting location and types, and other pertinent data. Distances to surrounding buildings must also be shown on the plan. The applicant shall submit these plans to the Joint Planning Board for consideration and recommendation. In any event, no building permit shall be issued for any construction until authorized by a majority vote of the Board. The Board at its discretion may request input from the City of Sauk Rapids Planning Commission.

Subd. 7. Other Requirements.

A. Off-Street Parking and Loading:

- 1) The greater of 1 parking space for every 250 square feet of gross floor area for the first 10,000 square feet of gross floor area, then 1 space for every 400 square feet of gross floor area thereafter; or 1 space for every 3 restaurant seats; 1 space for every 3 seats in religious institutions such as churches, chapels, temples, and synagogues; 5 spaces for each bowling alley and; 1 spaces per motel unit or 1 spaces for every 2 employees, whichever is greater; 1 spaces for every 60 square feet of gross floor area for taverns with dance floors and for gathering areas without seats such as dance halls.
- 2) Any off-street parking area containing 5 or more parking spaces must be screened from any adjacent single-family home or duplex by fencing or plantings.
- 3) Parking spaces shall be on the same lot as the principal building and not

located within 5 feet of any street right-of-way or 3 feet from the adjacent property line.

- 4) A parking space, as referred to in this Chapter, shall be at least 9 feet wide by 18 feet long.
 - 5) All off-street parking areas shall be provided with a concrete or asphalt surface, adequate drainage, and, if lighting is used, it shall be directed away from adjacent family homes or duplexes.
 - 6) No entrance to or exit from a parking area shall be more than 30 feet in width, and under no circumstances will off-street parking areas be designed so that vehicles must back into the street or public way.
 - 7) No public or private garage in a Commercial District for more than 5 motor vehicles shall have an entrance or exit within 39 feet of a Residential District boundary line.
 - 8) One off-street loading and unloading space be provided for each store unit having a gross floor area of 10,000 square feet of floor space.
- B. Loading Docks. No loading docks or overhead doors shall directly face State Highway 23 or 10.
- C. Building Exteriors. All construction of new facilities shall consist of pre-cast or cast in place concrete walls, concrete block (painted for decorative), post frame/steel frame with a concrete block or poured concrete complete perimeter foundation with frost footings extending a minimum of eight inches (8") above the final grade, and stick built construction. Pre-finished architectural metal panels, with a minimum twenty (20) year manufacturer colorfast warranty, may be used as a construction material. The exterior building finish of fifty percent (50%) of all four sides of the structure, exclusive of windows and doors, shall consist of materials comparable to: face brick, natural stone or cultured rock, glass, vinyl, stucco, aluminum lap siding, cut block, and concrete block (the surface must be treated with an applied decorative texture or material). Pre-cast or cast in place concrete building shall provide as much adornment as is possible considering their exterior finish limitations.
- D. Screening. All heating, ventilation, and air conditioning equipment shall be screened if within 39 feet of any roof edge, and placed in a suitable location as determined by the Joint Planning Board. All refuse storage areas shall also be screened and placed within a suitable enclosure.
- E. Lighting. All lighting shall be hooded and no light may directly strike State Highway 10 or 23 or areas outside of the development.
- F. Landscaping. In addition to requirements relating to parking lots, the Site Plan shall show a unified landscaping scheme for the development. When the lot abuts a residential district, a 7-foot fence shall be erected between the two properties.
- G. Existing Buildings. Existing buildings are exempt from the building exteriors standards until they expand. At that time, the Joint Planning Board shall review the proposed exterior through the site plan process to determine if it meets the intent of this Ordinance.

SECTION 9. OTHER DISTRICTS.

Subd. 1. That Section 10.08, R-1, Single-Family Residence District, 10.09 R-2, Two-Family Residence District; 10.10 R-3, Multiple Family Residence District; 10.10A R-4, Elderly

Housing District; 10.12, C-1 Commercial District, 10.12, C-2, Commercial District; 10.13 I-1, Industrial Development, 10.14A Planned Unit Development of the Sauk Rapids City Code are hereby adopted by reference as if fully stated herein as of the date of the adoption of this Ordinance (May 28, 2008).

Subd. 2. That Section 10.10 Subd. 3 of the Sauk Rapids City Code, Uses by Conditional Permits, J. Mobile Home Courts and Trailer Parks, is hereby deleted.

SECTION 10. ADDITIONAL REQUIREMENTS - ALL DISTRICTS WHEN APPLICABLE.

Subd. 1. Signs. Section 10.16 of the City Code of Sauk Rapids, as amended from time to time, is hereby adopted by reference.

Subd. 2. Subsurface Sewage Treatment Standards. See Appendix A.

Subd. 3. Field Windbreak. See Appendix B.

Subd. 4. Towers. Section 10.15A of the City Code of Sauk Rapids is hereby adopted by reference.

Subd. 5. Feedlots. See Appendix C.

Subd. 6. Adult Uses. Adult Use Establishments with a minimum separation of 350 lineal feet from any other Adult Use Establishment and 1,000 lineal feet from any hotel, motel, nursing care home, housing for the elderly, day care facility, church, school, park, and any residentially zoned property. Adult Use Establishments shall only be allowed in I-1, Industrial Districts.

Subd. 7. Flood Plain. Chapter 11 of the City Code of Sauk Rapids, as amended from time to time, is hereby adopted by reference.

SECTION 11. BUILDING CODE

Subd. 1. Adopted Code. The Minnesota State Building Code, established pursuant to Minnesota Statutes Chapter 16B.59 through 16B.73, one copy of which is on file in the office of the City Clerk and building Inspector, is hereby adopted as the building code for the Joint Planning Board of Sauk Rapids. Such code is hereby incorporated in this ordinance as completely as if set out in full. Pursuant to Minnesota Statutes Chapter 16B.62, the state building code does not apply to agricultural buildings except with respect to state inspections required or rule making authorized by sections 103F.141, 216C.19, subdivision 8, and 326.244.

Subd. 2. Administration Required. The following chapters of the code are administered by this Board:

1. 1300 Minnesota Building Code
2. 1301 Building Official Certification
3. 1302 State Building Construction Approvals
4. 1305 Adoption of the 1997 Uniform Building Code including

- a. 3, Division I, Detention, and Correctional Facilities
- b. 12, Division II, Sound Transmission Control
- c. 29, Minimum Plumbing Fixtures
5. 1307 Elevators and Related Devices
6. 1315 Adoption of the 1996 National Electrical Code
7. 1325 Solar Energy Systems
8. 1330 Fallout Shelters
9. 1335 Flood proofing Regulations
10. 1340 Facilities for the Handicapped
11. 1346 Adoption of the 1991 Uniform Mechanical Code
12. 1350 Manufactured Homes
13. 1360 Prefabricated Buildings
14. 1361 Industrialized/Modular Buildings
15. 1365 Snow Loads
16. 1370 Storm Shelters
17. 4715 Minnesota Plumbing Code
18. 7670 Minnesota Energy Code

Subd. 3. Organization and Enforcement. The organization of the Building Department and enforcement of the Code shall be established by Chapter 1 of the Uniform Building Code 1997 Edition. The Code shall be enforced within the incorporated limits of the City, and extraterritorial limits permitted by Minnesota Statutes, 1984 and a Joint Planning Agreement with Sauk Rapids Township.

The Building/Assessors Department shall be the Building Code Department of the Joint Planning Board. The Administrative Authority shall be a State Certified "Building Official". The City of Sauk Rapids shall provide the Building Official.

Subd. 4. Permits, Inspection, Fees, and Surcharge. Section 3.04 (b) Plan Review Fees and Table No. 3-A are deleted.

- A. Permits, Inspection and Fees. The method of establishing permit fees and the amounts of the permit fees for activities encompassed by the code are established by Board Resolutions.
- B. Surcharge. In addition to the permit fee required by (A) above, the applicant shall pay a surcharge to be remitted to the Minnesota Department of Administration as prescribed by Minnesota Statutes Chapter 16B.

Subd. 5. Uniform Fire Code. The Uniform Fire Code of the State of Minnesota, Minnesota Statutes 299F.011, one copy of which is on file in the office of the City Building Inspector, is hereby applicable within the Joint Planning Area and the Fire Chief of the City of Sauk Rapids shall be responsible for the administration and enforcement of the Uniform Fire Code.

SECTION 12. SAUK RAPIDS ZONING OR SUBDIVISION ORDINANCE

Definitions. For the purpose of this Ordinance, certain words and terms that appear in the Zoning or Subdivision Ordinance of the City of Sauk Rapids are hereby defined and clarified.

1. City or Municipality. The words shall also mean the geographic land areas within the Joint Planning Area.
2. City Council. The term shall mean Joint Planning Board members.
3. Official Zoning Map. The term shall mean the map dated November, 1998 or as amended, signed by the Chairman and Secretary of the Joint Planning Board.
4. City Administrator. The term shall mean the city staff person assigned to the Joint Planning Board as Secretary.
5. Planning Commission. The term shall have no meaning or use because the Joint Planning Board acts as a planning agency.
6. Jurisdiction. See the word City.

SECTION 13. CONDITIONAL USE PERMITS; INTERIM USE PERMITS; VARIANCES; REZONING; APPEALS.

Subd. 1. Conditional Use Permits.

- A. Conditional Use Permits may be granted by the Board for uses designated within a district as Permitted Conditional Uses when such uses are in harmony with both the zoning district in which it will be located and the objectives of the Comprehensive Plan. In the granting of its approval, the Board may impose such conditions regarding the location, character and other features of the proposed building structure or use as it may deem advisable. A violation of any such condition is a violation of this Chapter.
- B. The permit is subject to time limits and periodic review. Any violation of any condition or standard could result in automatic termination. If not used, a Conditional Use Permit becomes void after 180 days. A Conditional Use Permit is issued for a use and not to or for an individual, but may be limited in time or to certain ownership.
- C. Standards. The Board shall order the issuance of such permit, only if they find that such use at the proposed location:
 1. Will not be detrimental to, or endanger the public health, safety, morals, comfort, convenience, or general welfare of the neighborhood, the Joint Planning Area or the City.
 2. Will be harmonious with the general and applicable specific objectives of the Comprehensive Plans of the City and the Joint Planning Board and this Ordinance.
 3. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing vicinity or the intended character of the general vicinity, and will not change the essential character of that area.
 4. Will not be hazardous or disturbing to existing or anticipated future neighboring uses.
 5. Will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems, and schools; or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.

6. Will not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community.
7. Will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare, or odors.
8. Will have vehicular approaches to the property which are so designed as not to create a traffic congestion or an interference with traffic on surrounding public thoroughfares.
9. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.
10. Will conform to specific standards of this Ordinance applicable to the particular use.

Subd. 2. Interim Use Permits.

A. Purpose and Intent. The purpose and intent of allowing interim uses is:

Subd. 1. To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.

Subd. 2. To allow a use that is presently judged acceptable by the Board, but that, with anticipated development or redevelopment, will not be acceptable in the future.

Subd. 3. To allow a use that otherwise may not be allowed under the zoning regulations but because of its temporary nature may be acceptable.

B. Procedure. Interim Use Permits will be processed according to the standards and procedures for Conditional Use Permits established by Section Subdivision 5 of this Section.

C. General Standards. An interim use must comply with the following:

1. The use must meet the Conditional Use Permit standards set forth in Subdivision 5(B) of this Section.
2. The use must conform to all applicable zoning regulations.
3. The date or event that shall terminate the use must be identified with certainty.
4. The use will not impose additional unreasonable costs on the public if it is necessary for the public to take the property in the future.
5. The user agrees to any conditions that the Board deems appropriate for permitting the use.

D. Additional Conditions. In permitting an interim use, the Board may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions which the Board considers necessary to protect the interests of the surrounding area or the Joint Planning Area as a whole.

E. Termination. An interim use shall terminate and become void on the first to occur of the following events:

1. The date stated in the permit.
2. A violation of any condition under which the Board issued the permit.
3. A change in the applicable zoning regulations, which no longer allows the use.
4. The operator/owner or the use changes.
5. The permit is not utilized for a period of one (1) year from the issuance date.

F. Revocation. The Board may revoke the interim use permit if any of the permit's conditions are violated.

G. Certification of Taxes Paid. Before the Board approves an interim use permit application, the Board may request that the applicant provide certification that there are no delinquent property taxes, special assessments, interest, or utility fees due upon the parcel of land to which the interim use permit application relates.

Subd. 3. Variances. Where there are practical difficulties or unusual hardships in the way of carrying out the literal provisions of this Ordinance, the Board shall have the power, in a specific case, to permit a variance from the requirements of this Ordinance. The Board shall not grant any variance unless they find the following facts:

- A. That there are special circumstances or conditions affecting the land or buildings.
- B. That the granting of the variance is necessary for the preservation and enjoyment of substantial property rights.
- C. That the variance, if granted, will not adversely affect the health or safety of persons residing or working in the area and will not be materially detrimental to the public welfare or injurious to property values or improvements in the neighborhood.
- D. In granting a request for a variance, the Board may stipulate any conditions necessary to protect the public health, safety, or welfare.

Subd. 4. Rezoning.

An amendment to the Official Zoning Map of this Ordinance may be initiated by the Board or a verified petition of not less than ten (10) owners of property lying within the limits of the Joint Planning Area, or by the owner(s) or agent acting on behalf of the owner(s) of the subject property.

It is the policy of the Board to maintain the Joint Planning Area as an agricultural area until such time as it is appropriate for annexation to the City of Sauk Rapids. Non-agricultural zoning districts may currently exist within the Joint Planning Area, however, further development within these districts will be permitted only if immediate annexation to the City of Sauk Rapids is not deemed appropriate and development of such property within the Joint Planning Area is consistent with the development plans of the Joint Planning Board, Sauk Rapids Township and the City of Sauk Rapids. The Joint Planning Area is viewed as a highly delicate transitional area in which development will be strictly controlled and rezonings to

non-agricultural zones without immediate annexation to the City of Sauk Rapids will be permitted only in highly unusual circumstances. In the event a property owner believes his/her property is appropriate for development, the property owner may submit a request to the Board for annexation and recommendation as to zoning. The Board after review of the property Owner's concept plan for the property will make a recommendation as to annexation. If the Board believes, annexation of the property to the City of Sauk Rapids is appropriate the Board will also provide the City with its recommendation as to the proper zoning of the property.

Subd. 5. Procedure for Conditional Use Permits, Variances & Rezonings.

- A. Applications for a Conditional Use Permit, a Variance, or a Rezoning shall be accepted by the Board upon payment of the determined fee set by Board resolution.
- B. Application for a zoning permit shall include the following where applicable: plans drawn to scale showing the nature, location, dimensions existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to roads, wetlands, and other features as may be specified by the Building Inspector. In addition, the application must include any other information specified on the application form or requested by the Board.
- C. Before any Conditional Use Permit, Variance, rezoning or amendment to this Ordinance is approved or adopted, the Board shall hold at least one public hearing thereon after a notice of the hearing has been published in the official newspaper and mailed to each owner of property within three hundred fifty (350) feet of the subject property, at least ten (10) days prior to the day of hearing; such notices are to be mailed first class to the last known address of the owners listed on an abstractor's certificate or other appropriate land ownership records.
- D. The Board may grant or deny the application for a Conditional Use Permit or a Variance by a majority vote of its membership, and when denied, stating the reasons therefore. A Conditional Use Permit or a Variance, when not used, shall expire one hundred eighty (180) days after the day of issuance unless a written application for a renewal or a time extension is received and granted by the Board prior to the expiration date. The Board may adopt a zoning amendment or any part thereof in such form as it deems advisable only if 2/3 (3 of 4) of its members concur on its passage.

Subd. 6. Appeals. The Board shall consider the appeal of any affected person where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of this Ordinance. The decision of the Board may be appealed to the district court of this jurisdiction as provided in Minnesota Statutes, Chapter 462.361.

SECTION 14. LAND EXTRACTION

Subd. 1. Purpose. The purpose of this ordinance is to allow for excavation projects within the Orderly Annexation Area in a manner that is consistent with the transitional nature of the area. This ordinance ensures that extraction projects

are located and operated in such a manner as to minimize conflicts with future development. This ordinance is also intended to protect the ground water supply, which is a source of drinking water within the Orderly Annexation Area.

Subd. 2. Conditional Interim Use Permit Required.

- A. Extractive uses shall be a conditional interim use within the Joint Planning Area in the A-1 district, and shall only be allowed after issuance of a conditional interim use permit.
- B. All forms of extractive use shall be subject to the provisions of this ordinance, including, but not limited to, sand, gravel, topsoil, quarry rock, mineral, peat, humus, sub-surface institu-leach extraction, petroleum, and any other similar uses in which material is removed from the ground, except as follows:
 1. Personal, non-commercial use. Personal, non-commercial extractive use by the owner of the land on which the extractive use takes place is exempt from the permitting requirements of this ordinance, but shall comply with the restoration standards of Section 6 within one year of suspension of extraction activities if the extraction site is visible from a public road.

Subd. 3. Permit Application. In addition to the general application for interim and conditional use permits required by this Ordinance, the following specific application information shall be provided by an applicant for an extractive use conditional interim use permit:

- A. Application information.
 1. The correct legal description of the premises where the storage, filling, removal, or excavation of soil, sand, aggregate or other earthen material shall occur, including any easements.
 2. The name and address of both the applicant and owner of the land.
 3. A written description of the extractive use, the proposed methods for extraction and any other on-site operations.
 4. The estimated time required to complete the extraction.
 5. The public roads within the Joint Planning Area upon and along which the extracted material will be transported.
 6. Amount of truck activity at highest and average levels.
 7. Estimated annual extraction volumes of aggregate removed over the term of the permit.
 8. Projected dewatering activity, including the proposed rate of dewatering, the cone of depression to be formed, the draw-down effects of the dewatering, and the methods proposed to monitor the effects of dewatering.
 9. The location and projected effect upon wildlife habitat and vegetation, including migration corridors.
 10. Projected ambient noise levels to be experienced during peak extraction periods by adjoining properties, showing projected decibel levels from extraction equipment and hauling trucks.
 11. Proposed dust control measures.
 12. Proposed hours of operation.

13. Types of barriers established if necessary for safety of people and livestock by the active area of excavation.
 14. Reclamation plans.
 15. Plans for screening from adjacent properties.
 16. Plans for drainage from the site.
 17. Long range plans for the site, including future development and reclamation.
 18. Anticipated vegetative and topographic alterations.
 19. Proposed mitigation of effects on wildlife.
 20. Erosion and storm water control plans.
 21. Proposed mitigation for any cultural and/or archaeological sites.
 22. Noise abatement plans.
 23. A description of all land uses within one mile radius of the proposed extraction site.
- B. Site plan. In addition to the application information required above, the applicant shall submit a site plan detailing the following information:
1. A map or plat of the proposed pit or excavation to be made showing the limits of the extraction, together with the proposed finished elevations based on sea level readings, and a notation indicating high water levels and boundaries of flood plains.
 2. Horizontal and vertical dimensions of the extractive site.
 3. All setbacks from roads and adjacent property lines, including the buffer areas required by Section 5, on all sides of the operation.
 4. Location, size and use of all structures on the parcel.
 5. Location of all adjacent structures and their uses within $\frac{1}{4}$ of a mile.
 6. Area of excavation or phases of proposed excavation.
 7. Extent of vegetation within the buffer area.
 8. All lakes, streams, and wetlands on property.
 9. Location of proposed stock piles or slag piles.
 10. Location of reclamation materials.
 11. Depth to saturated soil and average water table depth.
 12. All wells, both proposed and existing, all water sources and discharge sites.
 13. USGS topographical map of the area delineating the site boundaries and access road.
- C. Blasting Plan. If an extraction project will include blasting, the applicant must submit a blasting plan detailing the following information:
1. Proposed number of blasts for the duration of the extraction project and the interval between such blasts.
 2. Proposed time of blasts.
 3. Notification plan for providing nearby property owners advance warning of blasts.
 4. A plan for monitoring the vibrations from each blast, measured in inches of vibration per second
 5. The anticipated intensity of vibration to be experienced by

neighboring property measured in inches of vibration per second.

6. A plan for conducting a test blast to demonstrate the effect of project blasting on neighboring properties.

D. DNR permit. If the applicant excavates into groundwater or the extraction appropriates any public water, a permit must also be obtained from the Minnesota Department of Natural Resources or other applicable regulatory agency. A copy of the permit shall be provided to the Joint Planning Board prior to commencing operations.

Subd. 4. Permit evaluation criteria. In addition to the general criteria for evaluating a conditional and interim use permits in this Chapter, the following specific criteria shall be used in evaluating an application for an extractive conditional interim use permit:

- A. The ability of roads to handle extractive related traffic.
- B. Air quality, dust and noise control measures and ability to limit impact upon any adjacent residential properties according to MPCA Standards.
- C. Groundwater protection.
- D. Property controlling access.
- E. Control of erosion and sedimentation.
- F. Impact within the watershed.
- G. In harmony with the Comprehensive Plan for the Joint Planning Area.
- H. Compatibility with adjacent and surrounding land use, zoning patterns and patterns of development.

Subd. 5. Required Conditions for Extractive Use Permit.

- A. Location. Extractive Use permits may only be issued in the A-1 District.
- B. Duration. All permits shall be for a specific maximum duration, which shall not exceed five years.
- C. Buffer area. A fifty foot buffer area, and additional area as needed to maintain a 3:1 slope, shall be established between the extractive use site and the property line of the premises containing the extractive use. No extraction project or related operations may take place within the buffer area, except that the buffer area may contain a haul road if the Joint Planning Board determines that site access needs to be within the buffer area for safety reasons or to avoid wetlands.
- D. Slope Stabilization. At all times slopes shall be stabilized, equipment shall be properly stored or removed, topsoil properly placed and seeding established as may be required, banks rounded to conform to the surrounding topography, with a slope of at least 3:1, and such other slope stabilization and erosion control measures as may be required.
- E. Periodic Cessation. Permits may be conditioned upon the periodic cessation of all or some activities for given durations of time.
- F. Access Roads. No permit shall be granted for any project, which must use public roads to transport material where such public roads have a bearing capacity of less than nine tons. In addition, the specific roads that may be used to transport material shall be identified at the time the time of the application,

and once identified, it shall be a violation of the permit for any person to depart from the designated transport roads while operating a vehicle regularly used to transport fill.

- G. Haul Roads. Every extraction project shall maintain interior haul roads from the nearest 9-ton road to the outside perimeter of the excavated area. Interior haul roads shall be treated with water or environmentally safe chemicals and shall be properly maintained so as not to generate dust.
- H. Traffic Control. The Joint Planning Board may at any time require the installation of temporary traffic controls, may direct a cessation of hauling activity using public roads during peak traffic hours, or direct such other traffic safety measures to be implemented as are necessary to enhance traffic safety.
- I. Exhaust-Braking. Vehicles using access roads, whether public or private, to and from the excavation site shall refrain from using exhaust-braking systems, commonly referred to as “jake-braking.”
- J. Dewatering Controls. Every extraction project requiring dewatering shall include monitoring of groundwater, including neighboring wells.
 - 1. The applicant shall install and maintain monitoring wells as designated by the Joint Planning Board, having electronic controls capable of constant water level monitoring.
 - 2. Prior to commencing any dewatering activity, the applicant shall conduct such baseline studies of existing private wells and ponds as directed by the Joint Planning Board through development agreement. Private wells within a radius determined by the Joint Planning Board’s engineer shall be tested for water quality prior to any dewatering activity, and shall be retested annually during the course of the project, or more frequently at the direction of the Joint Planning Board’s Engineer if complaints are registered that justify such re-testing, in the sole judgment of the Joint Planning Board’s Engineer.
 - 3. Private well testing shall not be required if the owner of the well refuses to allow testing, provided that the applicant furnish satisfactory evidence to the Joint Planning Board staff of such refusal, and subject to verification by City staff of such refusal. In verifying such refusal, City staff shall make at least one attempt to communicate by U.S. mail, at least one attempt to communicate by telephone, and shall prepare a written report to the Joint Planning Board detailing the attempts to contact the refusing party.
 - 4. All extraction projects requiring dewatering shall include as a part of the operation a plan for diverting water removed in the dewatering process to locations where the pumped water will be able to recharge any lowered water tables in the most expeditious manner that is practical.
- K. Muffling of Generator or Pump Noise. If the project involves the use of generators or pumps that operate outside of the normal hours of operation, the Joint Planning Board may require that such generators and pumps be

enclosed by structures that muffle the sound of the pumps to the point where pump noise is not audible from nearby residences during night time hours. If such enclosures are required, they shall be engineered to include proper insulation, and detailed plans for the housings shall be submitted for approval by the Joint Planning Board's engineer prior to the time that any such pumps or generators commence operation.

- L. **Additional Dust Control Measures.** In addition to dust control measures on haul roads, the applicant shall implement dust control measures within all other areas of the project that may be conducive to the creation of dust. Such measures shall be as directed by the Joint Planning Board's Engineer from time to time, and may include, without limitation, the following:
1. Watering of exposed areas;
 2. The placement of straw, sod or other cover material on exposed areas;
 3. Restrictions on the size and location of stockpiles of material awaiting transport;
 4. Covering stockpiles of material awaiting transport.
 5. Creating seeded berms with material eventually intended for use in restoration work.
- M. **Blasting.** If the project involves blasting, the applicant shall implement measures to minimize the impacts to nearby properties. Such measures shall include the following:
1. The applicant must provide written notification to every property owner within ½ mile of the extraction project at least 24 hours in advance of blasting.
 2. The applicant must immediately notify the City if any vibration measurement exceeds 0.75 inches of vibration per second for neighboring properties.
 3. Blasting may not occur on more than 10 days in any 12 month period, with no more than one blast per day, unless authorized by the Joint Planning Board. Additional blasts may be authorized in the first year of operation in order to construct a road to the pit floor.
 4. The Board may require the applicant to conduct a test blast before the permit is valid. If the test blasting illustrates additional concerns not already addressed, the Joint Planning Board may add additional conditions that relate to the new concerns, or prohibit further blasting on the project.
- N. **Payment of Costs.** The applicant shall be responsible for the payment of all of the Joint Planning Board and City costs associated with reviewing any application, in monitoring compliance, and in enforcing any conditions of a permit issued under this ordinance, including but not limited to attorney and engineer fees.
- O. **Sureties.** The Joint Planning Board shall require financial guarantees

for the prompt completion of each project, for road repair costs, well replacement and other hydrologic damage, restoration costs in the event of revocation of the permit or abandonment, and general performance and indemnity of the Joint Planning Board.

- P. Hours. The Joint Planning Board shall regulate time of operation, including different phases of operation, but shall not permit any construction activity (except pumping) or hauling outside of the hours of 7 am to 7 pm on Monday through Friday, excluding holidays that fall on those days. The Joint Planning Board may allow construction activity and hauling between the hours of 8am and 5pm on Saturdays, subject to the right of the Joint Planning Board to alter or eliminate Saturday work in its sole discretion. The Joint Planning Board may restrict blasting hours more than ordinary hours of operation. The time restriction applies to the practice of trucks queuing and/or waiting either at or near the entrance gate or on the grounds of the project prior to the start time each morning, or running vehicle engines in any form on or near the grounds after the finishing time each evening.
- Q. Size. The Joint Planning Board may limit the amount of the land area, setback, depth, and slope ratios.
- R. Security. The Joint Planning Board may require the construction of security fencing or other devices for public safety.
- S. Noise Control. The Joint Planning Board may regulate the volume of noise and require additional noise abatement measures where appropriate.
- T. Studies. Prior to completing the approval process, the Joint Planning Board may engage professional consultants, at applicant's expense, to give recommendations as to conditions to be attached to a given permit.
- U. Deposit. The Joint Planning Board may require an advance cash deposit sufficient to defray the Joint Planning Board's review and monitoring costs in administering the permit.

Subd. 6. Reclamation Plan. Before any permit is granted, the applicant must submit a reclamation plan for approval by the Joint Planning Board. The plan shall meet the following minimum reclamation standards:

- A. Reclamation of the site shall be completed within one year of ceasing operations. All buildings, structures, and plants incidental to such operation shall be dismantled and removed by, and at the expense of the applicant.
- B. The peaks and depressions of the area shall be graded and backfilled to a surface which will result in a topography in generally substantial conformity to the land area immediately surrounding, and which will minimize erosion due to rainfall. No finished slope shall exceed a 3:1 slope ratio.
- C. Reclaimed areas shall be surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to be seeded with compatible non-invasive plants.

Subd. 7. Public Hearing. Prior to acting on any request for permit, a public hearing shall be conducted by the Joint Planning Board.

- A. Notice of the public hearing shall be published in the same manner as for notices of zoning amendments, with notice given to all owners of lands which abut the parcel or parcels upon which the excavation activity is to occur, as well as to the owners of all occupied structures within one thousand five hundred feet of the property line perimeter of the parcel or parcels of land upon which the excavation activity is to occur.
- B. Notice of the public hearing shall also be given to all residences that abut the access roads to be used for the project within a distance of one mile from the outside perimeter of the parcel or parcels upon which the extraction project is to occur. Extraction project includes the actual extraction pit, all haul roads, storage areas, equipment staging areas, pump locations, and parking areas for cars or construction offices.

Subd. 8. Denial of Permit. The Joint Planning Board may deny the issuance of a permit if, following submission of the appropriate data, the Joint Planning Board finds that the proposed project:

- a. Poses a significant threat of adverse environmental impact;
- b. Creates potential traffic safety hazards;
- c. Cannot meet the conditions of permit approval; or
- d. Is fundamentally incompatible with nearby land uses.

Subd. 9. **Variances.** Except for public hearing requirement in Section 7, the Joint Planning Board shall retain the right to grant variances from the strict enforcement of the terms and conditions of this section for good cause shown, including, without limitation, for any of the following reasons:

- a. Existing drainage conditions on or near the proposed project are in need of correction for the benefit of public health, safety or welfare;
- b. The proposed project is in a location having a substantial spatial separation from nearby active land uses;
- c. The scope of the proposed project is otherwise sufficiently limited in size, duration, and impact on surrounding property to justify the granting of a variance.

SECTION 15. ENERGY PROJECTS

Subd. 1. Purpose. The purpose of this ordinance is to ensure the proper siting of energy projects to meet energy and economic needs while protecting the environment in a way that is consistent with the transitional nature of the area and minimizes conflicts with future development. These standards protect the public health, safety, and general welfare of residents.

Subd. 2. Definitions. For the purposes of this ordinance, the terms defined in this section have the following meaning:

- A. Energy Project: electric generation projects, subsidiary stations of electricity generation, transmission line, and distribution systems where voltage is transformed from high to low or the reverse using transformers, thermal power or combustion turbine electric generation projects, wind or solar electric generating projects, geothermal electric generating projects, and electric transmission and distribution lines.
- B. Transmission Line: an overhead or underground facility consisting of utility poles, lines, underground conduit, and/or related devices used to carry electricity generally to a location other than the ultimate user, with a nominal voltage greater than 35 kilovolts.

Subd. 3. Conditional Uses. Within all districts, no structure or land shall be used for an Energy Project except by conditional use permit.

Subd. 4. Application Process.

- A. Pre-Application Meeting. Before submitting an application for an Energy Project conditional use permit, the applicant must schedule a pre-application meeting with staff. The meeting may also include affected adjacent landowners. At the pre-application meeting, the applicant will provide:
 - 1. Documentation demonstrating the need and purpose for such a facility so that alternatives to the facility can be adequately assessed;
 - 2. All site location alternatives considered by the applicant, providing at least two (2);
 - 3. Designation of the preferred location; and
 - 4. A “no-build” alternative that discusses measures that could be taken in an attempt to meet the documented need without construction of the facility.
 - 5. Designation of the applicant's preferred location.
- B. Expert Report. The Board may retain an independent technical expert, to be paid for by the applicant, to assist the Board in reviewing the proposed Energy Project. Staff will conduct an analysis of the alternatives to the proposed Energy Project and shall present a report to the Board. The Board shall narrow the alternatives to two (2), which may include the applicant’s preferred location.
- C. General Application Requirements. The applicant shall submit an application for a conditional use permit which must include the following information for each alternative selected by the Board as well as the applicant’s preferred location, if it is not one of those selected by the Board:
 - 1. Project costs;
 - 2. Proof that the applicant has acquired a sufficient interest in the property proposed for the Energy Project;

3. Amount of vegetation that would be removed or damaged;
 4. Depictions of the views of the proposed facility, if above ground, from four directions;
 5. Projected ambient noise levels and maximum noise levels that will be experienced by adjacent properties;
 6. The potential for interference with telephones and other electronic devices, including medical devices;
 7. For an electrical transmission line or substation, a summary of current research regarding the health effects of Electronic and Magnetic Fields (“EMF”) levels, conducted by health and scientific professionals, including those who do and do not receive utility sponsorship;
 8. For an electrical transmission line or substation, EMF levels under maximum and average anticipated loading at the base of the utility poles, underneath the wires between the poles, at ground level above underground wires, at the edge of the property line, at the edge of the closest habitable building, and at the point above ground where there would be the greatest EMF level; and
 9. For an electrical transmission line or substation, reasonable and prudent measures to minimize EMF levels along all alternative routes.
- D. Transmission Line Requirements. For an electrical transmission line, the applicant must comply with the following unless the applicant shows that this is not reasonable or prudent:
1. The routes must be on or along corridors presently used for public roads, public trails, railroads, or aboveground utilities, or on corridors which were previously used for such purposes and which are being retained for future public or utility purposes.
 2. Arterial or collector streets must be used instead of local roadways, except that local roadways may be used where aboveground electrical lines already exist.
 3. Platted utility easements in residential zones, which do not abut public roads, or roadway easements may not be used, unless the lines are placed underground.

Subd. 5. Public Hearing. The Board must hold a public hearing on the application and take testimony from interested parties.

- A. Notice. At least 10 days before the public hearing, the Board must mail notice of the hearing to all owners of property wholly or partially within a ¼-mile radius of any portion of the alternative locations to be presented to the Board.
- B. Selection of Alternative. The Board will select an alternative by a majority vote of the members present.
- C. Conditions of Approval. The Board may impose reasonable conditions as part of the approval to protect adjacent property or people. In addition to the

general criteria for evaluating a conditional use permits in Ordinance 13, the following specific criteria shall be used in evaluating the application:

1. The potential adverse aesthetic, economic, environmental, social, health, and/or safety impacts on adjacent properties or people;
 2. The proximity to existing residential districts and future residential districts according to the Comprehensive Plan;
 3. The location of the facility on the property;
 4. The location of the access to the facility from public right of way;
 5. The installation of all electrical transmission lines underground, to the maximum extent that may be required by Minnesota law;
 6. The storage of equipment, vehicles, and spare parts in an approved storage building;
 7. The potential interference with public use of public property;
 8. The applicant's need to adequately and reliably serve customers within the relevant service area now and in the foreseeable future,
 9. Project costs.
 10. The potential impact on drainage and the necessity of a drainage plan.
- D. Unfeasible Alternatives. If, after the board has selected an alternative, the applicant believes that it cannot use the alternative because of a reason that was beyond its own control and not apparent during the selection process, the applicant may notify the Board in writing and request the selection of a different alternative. The Board may select a different alternative if it finds that the applicant is prevented from the using the selected location.
- E. Site Plan. After receiving the conditional use permit and before beginning construction, the applicant must apply for site plan approval. The site plan may be considered at the same meeting as the conditional use permit application. Only the site plan for the selected location will be considered. The site plan must comply with the following:
1. The site plan must include a landscape plan prepared by a registered landscape architect. Plant material selection will take into consideration disease and insect resistance, hardiness to the area, the ability to provide seasonal interest and future maintenance considerations. Native species are preferred. Invasive species as identified by the Minnesota Department of Natural Resources are prohibited.
 - a. The plan must be designed to mitigate the amount of trees removed for the facility and must minimize the visual impact on abutting properties caused by the facility.
 - b. The applicant must install and maintain the landscaping in compliance with code provisions and the plan as approved by the Board.
 - c. With the concurrence of the abutting property owner, the landscape plan may include plantings on abutting property. In that case, the applicant will be responsible for installation, and the abutting property owner will be responsible for the

- maintenance of the landscaping. A signed easement, which memorializes such an agreement, must be provided.
2. The facility must be designed to minimize the visual impact of the facility.
 - a. The applicant must submit configuration, material, and color options that are technically feasible.
 - b. The Board may require the applicant to design the facility in a manner that reduces the visual impact of the project, including regulating the height and spacing of utility poles.
 - c. Utility poles may not exceed 80 feet in height, except when needed to cross a major roadway such as a highway.
 - d. The Board may require the applicant to install screening of the facility to minimize the visual impact to neighboring properties and public right of way.

 - C. The facility must not interfere with the use of public right-of-way, including use for vehicular and pedestrian travel, snow storage, and lateral support.

Subd. 6. Maintenance. The applicant and any subsequent owner must continually maintain the facility in good condition, including repainting or re-staining deteriorated surface finishes, securing poles and/or “guy” wires to the ground, and replacing poles that are in a deteriorated condition.

Subd. 7. Severability and Savings Clause. If any section or portion of this ordinance is found to be unconstitutional or otherwise invalid or unenforceable, that finding shall not effect the validity and enforceability of any other section or provision of this ordinance. The remaining provisions shall be considered severable, and shall be given effect to the maximum extent possible.

SECTION 16. SUBDIVISIONS

It is the purpose and intent of the Board to regulate subdivisions of land in a manner so as to protect the integrity of the transitional nature of the property located in the Joint Planning Area. Such protection requires that any platting or development of property be completed after the property has been annexed to the City of Sauk Rapids except in those rare circumstances where the Board determines a subdivision of land will not harm the continued vitality of the Joint Planning Area as a rural area which will not be further developed until such time as the Board determines the property is appropriate for annexation to the City of Sauk Rapids. In said rare circumstances and after the Board has determined that platting prior to annexation is advisable, the Board shall apply the same standards as would be applied by the City of Sauk Rapids; therefore, Chapter 12 of the City Code of Sauk Rapids is hereby adopted by reference.

SECTION 17. ENFORCEMENT AND ADMINISTRATION.

Subd. 1. Enforcement and Penalties.

- A. This Ordinance shall be administered by the Board and enforced by the Police

Department. In carrying out this general authority, the Sauk Rapids City Administrator shall:

1. Cause inspections of buildings and the use of land to determine compliance with the terms of this Ordinance.
 2. Maintain permanent and current records pertaining to this Ordinance, including, but not limited to, maps, amendments, conditional uses, variances, appeals, and applications therefore.
 3. Receive, file, and forward applications for rezoning, variances, conditional use permits, or other action to the appropriate official bodies.
 4. Provide clerical and technical assistance to the Board.
 5. Make recommendations to the Board on the institution of appropriate actions or proceedings for enforcement of this Ordinance, on amendments, and on any other matters relating to the administration of this Ordinance.
- B. The Building Inspector shall require that the application for a building permit and the accompanying site plan for all construction contain all of the information necessary to enable him to determine whether the proposed structure complies with the provisions of this Ordinance. No building permit shall be issued for the construction, structural alteration, or moving of a structure until the Building Inspector has verified that the proposed building or alteration complies with all the provisions of this Ordinance and other applicable regulations.
- C. The Police Department, as the enforcing agency of this Ordinance, shall have all the powers, duties, and responsibilities necessary to enforce the provisions of this Ordinance and to issue such directives as may be necessary to carry out the intent thereof.

Any persons, firm, or corporation, who violates, abuses, neglects, refuses to comply, or who resists the enforcement of any provision of this Ordinance, shall be guilty of a misdemeanor, which shall be punishable by a fine not exceeding \$700.00 or ninety (90) days imprisonment for each offense, plus the cost of prosecution in either case. Each day that a violation continues to exist will constitute a separate offense.

Subd. 2. Validity. If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole nor any of the parts not invalidated.

APPENDIX A. 9.6 SUBSURFACE SEWAGE TREATMENT SYSTEMS (SSTS) (Ord. #432, effective 1/2/09)

9.6.1 PURPOSE, OBJECTIVE AND AUTHORITY

A. Purpose

The purpose of this ordinance is to establish minimum requirements for regulation of individual sewage treatment systems (ISTS) and mid-size subsurface sewage treatment systems (MSTS) collectively referred to as subsurface sewage treatment systems (SSTS) for the treatment and dispersal of sewage within the applicable jurisdiction of the County to protect public health and safety, groundwater quality, and prevent or eliminate the development of public nuisances. It is intended to serve the best interests of the county's citizens by protecting its health, safety, general welfare, and natural resources.

B. Objectives

1. The protection of lakes, rivers and streams, wetlands, and groundwater in Benton County is essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the County.
2. Given the extensive resources and numerous supplies of surface water and groundwater and their susceptibility to contamination, the regulation of proper SSTS construction, reconstruction, repair and maintenance is necessary to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
3. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance is necessary to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
4. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
5. The provision of technical assistance and education, plan review, inspections, SSTS surveys and compliance investigations to prevent and control water-borne diseases, lake degradation, groundwater related hazards, and public nuisance conditions.

C. Authority

This Ordinance is adopted pursuant to Minnesota Statute § 115.55; Minnesota Statute §§145A.01 through 145A.08; Minnesota Statute §375.51; or successor statutes, and MN. Rule Ch. 7080, Ch. 7081, Ch.7082; Ch. 7083; or successor rules.

9.6.2 GENERAL PROVISIONS

A. Scope

This Ordinance regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the County's applicable jurisdiction including but not necessarily limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of the County shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Ordinance or by a

system that has been permitted by the Minnesota Pollution Control Agency (PCA).

B. Jurisdiction

The jurisdiction of this Ordinance shall include all lands of the County except for incorporated areas or areas under an annexation or joint powers agreement that administer a Subsurface Sewage Treatment System (SSTS) program by Ordinance within their jurisdiction, which is at least as strict as this Ordinance and has been approved by the County. The County Department of Development shall keep a current list of local jurisdictions within the County administering a SSTS program.

C. County Administration

The Department of Development shall administer the SSTS program and all provisions of this Ordinance. At appropriate times, the County shall review this and revise and update this Ordinance as necessary. The County shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program. The Department shall have the following duties and responsibilities:

1. To review all SSTS applications;
2. To issue all permits required by this Ordinance;
3. To inspect work in progress and to perform the necessary tests to determine its conformance with this Ordinance
4. To investigate complaints regarding SSTS and septage disposal;
5. To issue cease and desist orders and notices of violation, pursuant to this Ordinance;
6. To maintain proper records for SSTS and septage disposal including site evaluation records, design records including calculations and summaries for all system component sizing and as-builts.
7. To submit annual reports to the PCA to demonstrate enforcement of the local Ordinance per Minn.. R. 7082.0040, subp. 5.
8. Provide programs by the Department and/or others to increase public awareness and knowledge of SSTS. Programs may include distribution of educational materials through various forms of media and SSTS workshops focusing on SSTS planning, construction, operation, maintenance, and management.

D. State of Minnesota

1. Where a single SSTS or group of SSTS under single ownership within one-half mile of each other, have a design flow greater than 10,000 gallons per day for a consecutive seven-day period, the owner or owners shall make application for and obtain a State Disposal System (SDS) permit from PCA.
2. SSTS serving establishments or facilities licensed or otherwise regulated by the State shall conform to the requirements of this Ordinance including, but not limited to, campgrounds, resorts, mobile home parks, and eating and drinking establishments.
3. For dwellings including apartments, townhouses, resort units, rental cabins and condominiums, the sum of the flows from all existing and proposed sources under single management or ownership will be used to determine the

need for a SDS permit.

4. Any SSTS requiring approval by the State of Minnesota shall also comply with this Ordinance.

5. Plans and specifications must receive appropriate state and local approval before construction is initiated.

E. Plumbing Code Administration

1. The plumbing code shall be administered by the local building code official as it relates to the hook-up of the water using device to the septic tank or system.

2. Verification that the septic system hook-up is compliant with the plumbing code shall be provided by the building code official prior to issuance of a certificate of compliance.

9.6.3 GENERAL REQUIREMENTS

A. Standards Adopted by Reference

The County hereby adopts by this reference Minn. R. Chs. 7080 through 7083 in their entirety as now constituted and from time to time amended. This adoption does not supersede the County's right or ability to adopt local standards that are in compliance with Minn. Stat. §115.55, subd. 7.

B. Retroactivity

Except as explicitly set forth in Sect. 9.6.3 paragraph C below, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.

C. Existing Permits

Unexpired permits which were issued prior to the effective date shall remain valid under the terms and conditions of the original permit until the original permit expiration date.

D. Existing SSTS without Permits

Existing SSTS, including those with no permits of record, shall require a permit for new construction/replacement and the portion being replaced or upgraded shall be brought into compliance with the requirements of this Ordinance regardless of the date they were originally constructed. The portion of the SSTS that is not being replaced or upgraded is not required to be brought into compliance with this Ordinance unless it is failing or in the opinion of the designer is required to be upgraded.

E. Sewerability Requirements

All newly created lots, vacant lots and/or vacant lot of records shall have a minimum of two Type I septic sites or two Type II septic sites if the site has rapidly permeable soils types 1 or 4. A site without a septic system or a septic system that has not been in operation for more than five years shall be considered a vacant lot. (Ord.#436, adopted 4/7/09)

F. Sewerability Exceptions

Any newly created lot which is deed restricted for agricultural/recreational use, is exempt from demonstrating Type I septic sewerability requirements of Sect. 9.6.3 (E) e. Type I sewerability requirements are not required for a replacement sewage treatment system in which a dwelling or other establishment is

removed, and a new dwelling or other establishment is built within five years of the date of the removal of the existing dwelling or other establishment.

9.6.4 PROHIBITIONS

- A. **Occupancy or Use of a Building without a Compliant SSTS**
It is unlawful for any person to maintain, occupy, or use any building intended for habitation that is not provided with a SSTS that disposes of wastewater in a manner consistent with the provisions of this Ordinance.
- B. **Sewage Discharge to Ground Surface or Surface Water**
It is unlawful for any person to construct, maintain, or use any SSTS under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System (NPDES) program by the PCA.
- C. **Sewage Discharge to a Well or Boring**
It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minn. R. 4725.2050, or any other excavation in the ground that is not in compliance with this Ordinance.
- D. **Discharge of Hazardous/Commercial or Deleterious Materials**
It is unlawful for any person to discharge into any treatment system regulated under this Ordinance any hazardous, commercial or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality. (Ord. #436, adopted 4/7/09)
- E. **Wetlands**
It is prohibited to construct or place an SSTS, or any part thereof, in a wetland as defined in Minn. Stat. §103G.005.

9.6.5 SSTS PRACTITIONER LICENSING

- A. **Licensing Requirement**
No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by PCA in accordance with Minn R. Ch. 7083, except as exempted in Minn. R. 7083.0700.
- B. **Indemnification Agreement**
Unlicensed persons installing an SSTS on their property as permitted by Minn. R. 7083.0700 shall provide an executed agreement to the Department which indemnifies and saves the County, holding it harmless from all losses, damages, costs, including attorney's fees, and charges that may be incurred by Benton County due to the failure of the permittee to conform to and comply with the provisions of this Ordinance.

9.6.6 SSTS PERMITTING

- A. **Permits Required**
It is unlawful for any person to construct, install, modify, replace, repair, rejuvenate, remediate, or operate a subsurface sewage treatment system without the appropriate permit from Benton County. The issuing of any subdivision,

permit, variance, or conditional use under the provisions of this Ordinance shall not absolve the applicant's responsibility to obtain any other required permit. The purpose of this permit is to ensure that the proposed construction activity is sited, designed, and constructed in accordance with the provisions of this Ordinance by an appropriately certified and/or licensed practitioner(s). A septic permit is not required for minor repairs or replacements of system components that do not alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function as determined by the Department. (Ord. #436, adopted 2/7/09)

- B. **Septic Permit Required to Obtain Building or Land Use Permit**
For any property where a SSTS permit is required, approval and issuance of a valid SSTS septic permit must be obtained before a building or land use permit will be issued by the Department or Building Official.
- C. **Permit Application Requirements**
Septic permit applications shall be made on forms provided by the Department of Development and signed by the applicant/owner and an appropriately certified practitioner including the practitioner's license number and date of expiration. The applications shall include the Site Evaluation Report as described in Minn. R. 7080.1730, Design Report as described in Minn. R. 7080.2430, a Management Plan as described in Minn. R. 7082.0600. Applications shall be considered incomplete if they are not on the County forms, do not include a management plan and, when applicable, a monitoring plan, mitigation plan, pumping agreement or deed restriction. Applications shall also be considered incomplete if they are not signed by the owner/applicant and designer. (Ord. #436, adopted 2/7/09)
- D. **SSTS Designer Responsibilities**
1. Upon completion of any SSTS design, the SSTS designer shall review the proposed SSTS design with the applicant/owner. At that time, the designer shall have the applicant/owner sign the SSTS application, and any other required management plan or operational agreement before the design is released to the applicant/owner or installer.
2. If a proposed SSTS design can not meet a technical requirement of Minn. R. Chs. 7080 through 7083 or Benton County Development Code Section 9.6, it is the responsibility of the SSTS designer to contact the Department of Development before releasing the proposed SSTS design to the applicant/owner.
3. If it is determined by the designer and the Department of Development, that the proposed SSTS design would require a variance, the designer shall discuss this finding with the applicant/owner. The need for a variance shall be clearly indicated on a separate sheet of paper and attached to the proposed SSTS design. A variance application shall accompany the septic permit application. The septic application shall be considered incomplete until the variance is approved.
- E. **Application Review and Response**
The Department shall review a permit application and supporting documents in

accordance with Minn. Stat. §15.99. Upon satisfaction that the proposed work will conform to the provisions of this Ordinance, the Department shall issue a written permit authorizing construction of the SSTS as designed. In the event that the applicant makes a change to the approved application, the applicant must resubmit an amended application to the Department detailing the changed conditions prior to initiating or continuing construction, modification, or operation. The Department may approve or deny the amended application. If the permit applications is incomplete or does not meet the requirements of this Ordinance the Department shall deny the application or request additional information. A notice of denial or request for additional information shall be provided to the applicant with the reason for the denial or request for additional information. Applications shall be considered incomplete if they are not on County forms, do not include the required signatures, do not include a management plan , and when applicable a monitoring plan, mitigation plan, pumping agreement or appropriate deed restrictions.

F. Fees

The County Board shall establish fees for permits and reviews required by this Ordinance. All fees shall be paid prior to the issuance of the septic permit or certificate of compliance whichever shall apply.

G. Appeal

The applicant may appeal the Department's decision to deny the septic permit in accordance with the County's established policies and appeal procedures in accordance with Section 11.4.7 of the Development Code. (Ord. #436, adopted 2/7/09)

H. Permit Expiration

The septic permit is valid for a period of no more than one year from its date of issue or satisfactorily completion, whichever is shorter. The Department may, at its sole discretion, provide an expiration of the permit shorter than one year. Satisfactory completion of construction shall be determined by receipt of final record drawings and a signed certification that the construction or installation of the system was completed in substantial conformance to the approved design documents by a qualified employee of the Department. The Department may at its sole discretion grant an extension of the septic permit if requested in writing by the owner prior to the expiration of the permit.

I. Suspension or Revocation

The Department may suspend or revoke a septic permit issued under this section when issuance of the permit was based on false statements or misrepresentations of facts made by the applicant. The Department may suspend or revoke a septic permit issued under this section when there have unauthorized changes to the system design that alter the original function of the system, change to the treatment capacity of the system, change to the location of the system, or otherwise change to the original system's design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If the permit is suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid septic permit is obtained.

- J. Posting
The septic permit should be posted on the property in such a location and manner so that the permit is visible and available for inspection until construction is completed and certified.

9.6.7 SSTS STANDARDS

A. Benton County Standards:

The County hereby adopts by reference Minn. R. Chs. 7080 through 7083. In accordance with Minn. Stat. §115.55, subd. 7, Benton County has adopted more restrictive standards than required by Minn. R. Chs. 7080 through 7083.

B. Additional SSTS Design Requirements

In addition to the design requirements contained in Minn. R. Chs. 7080 through 7083, the following more restrictive requirements shall be required for all SSTS designs submitted to the Department. (Ord. #436, adopted 2/7/09)

1. A minimum of two soil borings are required in the primary site; however, if the primary and secondary site do not adjoin each other a minimum of three soil borings are required. Soil borings must be representative of the soil conditions throughout the absorption area and will be verified by staff.
2. A minimum of one soil boring is required in the secondary site; however, if the primary and secondary site do not adjoin each other a minimum of three soil borings are required. Soil borings must be representative of the soil conditions throughout the absorption area and will be verified by staff.
3. SSTS for new construction shall have a minimum of three feet of separation to the periodically saturated soils, bedrock or other restrictive layer, including one foot in the original soil.
4. The depth of the each soil boring shall be to the water table, bedrock or three feet below the proposed depth of the system, whichever is less.
5. An authorized representative from the Department of Development shall verify the soil borings prior to issuance of the certificate of compliance for any new or replacement system.
6. The proposed location of the soil treatment area shall be roped or staked upon completion of the SSTS design.
7. The application shall provide a fixed reference point and distances from the proposed sites and/or borings to that reference point including a benchmark with an assumed elevation.
8. All SSTS designs shall include at least one percolation test in the area of the proposed soil treatment area.
9. All SSTS or part thereof that will no longer be used and/or are found out of compliance shall be identified on the SSTS design.
10. Classification I flows shall be used to determine the average design flow for any SSTS design.
11. If the map unit name of the soil listed in the Benton County Soil Survey states "fine sand," the SSTS designer shall conduct a sieve analysis, or size the soil treatment area using the loading rates in Table IXa in Minn. R. Ch. 7080.
12. The absorption area of mounds shall be based upon Table IXa in Minn. R. Ch. 7080 from either the percolation rate or the heaviest soil texture encountered.

- 13. Table IX entitled "Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detail Soil Descriptions" and Table IXa entitled "Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Percolation Tests" from Minnesota Rules, Chapter 7080.2150, Subp. 3(E) are herein adopted by reference and either shall be used to size SSTS infiltration areas for SSTS design.
- 14. All newly created lots, vacant lots and/or vacant lot of records shall have a minimum of two Type I septic sites or two Type II septic sites if the site has rapidly permeable soils types 1 or 4. A site without a septic system or a septic system that has not been in operation for more than five years shall be considered a vacant lot.
- C. **Septic Tank Setback Requirements**
Sewage tanks, aerobic tanks, holding tanks, and sealed privies and any part thereof shall be located no closer to the following features than the minimum horizontal separation distances as stated in Table 1.

Table 1.

Source	Septic Tank Setback
Occupied Buildings	10 ft.
Unoccupied Buildings	5 ft.
Property Lines	10 ft.
Road right-of-way	5ft.

- D. **Soil Treatment System (Drainfield) Setback Requirements**
All soil treatment systems of an SSTS shall be set back the following minimum horizontal separation distances from the features given in Table 2.

Table 2.

Source	Drainfield Setback
Occupied Building	20 ft.
Unoccupied Building	5 ft.
Property Line	10 ft.
Road right-of-way	5ft.

- E. **Shoreland Setbacks**
All SSTS's shall be located in accordance with the minimum horizontal separation setback distances from Department of Natural Resources designated lakes, rivers and streams as stated in Table 3.

Table 3.

Shoreland District	Septic/Lift Tank Setback	Drainfield Setback
Agricultural/Urban & Tributary Rivers	75 ft.	75 ft.
Bluffs	30 ft.	30 ft.
Recreational Development Lakes	75 ft	100 ft
Natural Environment Lakes & Streams	150 ft.	150 ft.
Transitional/Forested Rivers	100 ft.	150 ft.

F. Winter SSTS Designs

A complete SSTS design, including soil borings and percolation tests are required year round. If weather or light conditions do not permit a complete design to be conducted and soils verified by the Department, the design shall be considered incomplete.

G. Incomplete SSTS Installations due to Winter/Wet Soil Conditions

If the soil treatment system can not be installed due to frost or wet soil conditions and the installer agrees to install the septic tank as a temporary holding tank system, the owner shall submit a holding tank pumping agreement with a PCA licensed maintainer to the Department prior to occupancy. Records of the frequency of pumping shall be kept for the Departments review or request for submission. (Ord. #436, adopted 4/7/09)

H. Determination of Hydraulic Loading Rate and SSTS Sizing

Hydraulic Loading Rate and SSTS Sizing shall be calculated using Table IXa from Minn. R. 7080.2150, subp. 3(E) entitled "Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Percolation Tests" and herein adopted by reference shall be used to determine the hydraulic loading rate and infiltration area for all SSTS permitted under this Ordinance.

I. Holding Tanks

Holding tanks for new residential dwellings are prohibited. Holding tanks may be allowed for replacement SSTS systems only if a drainfield cannot be installed. The final determination of the need for a holding tank shall be made by the Department. It is the responsibility of the designer to contact the Department before releasing the holding tank design to the applicant. (Ord. #436, adopted 4/7/09)

1. If a holding tank is permitted by the Department, the property owner shall:

- a. Provide to the Department a holding tank maintenance agreement with the application; and
- b. Maintain receipts of all maintenance performed. These records are to be available for submission and/or review by the Department.
- c. The holding tank shall have a minimum capacity of at least 1,500 gallons or an amount equal to 400 gallons multiplied by the number of bedrooms in the dwelling which the tank will serve, whichever is greater.
- d. An operating permit shall be required.

2. Low Volume Users

Holding tanks may be allowed for low volume uses subject to meeting the provisions of Section 9.6.7(I)(1)(a)-(d). Low volume users include the following:

- a. An accessory building with no more than two water using devices that may consist of only a sink and/or toilet.
- b. A place of business with no more than three water using devices that may consist of only a sink, toilet, emergency shower and/or washing machine.
- c. A township meeting hall that is not open to the public except when conducting official township business.

J. Additional SSTS Construction Requirements

In addition to the construction requirements contained in Minn. R. Chs. 7080 through 7083, the following additional requirements shall be met for the construction of SSTS systems:

1. Schedule 40 sewer pipe shall extend a minimum of 3 feet beyond the last septic tank and/or lift tank.
2. To prevent freezing problems, the sewer line from the lift tank to a pressurized soil treatment area shall be protected from sagging or bending.
3. The final dimensions of an SSTS mound system (the upslope and downslope calculations of the berm) shall be scarified and contain clean sand as defined in Minn. R.. 1110, subp. 16.
4. Clean sand used in the construction of mound systems shall be landscaped to a minimum of 4 horizontal units to 1 vertical unit for all new construction. Three horizontal units to 1 vertical unit may be used for replacement systems if determined by the Department that 4 horizontal units to 1 vertical unit can not be accommodated on-site.
5. Elevation readings (in reference to the design benchmark) shall be required at the time of the Department's inspection of all sewage treatment systems.
6. The top of the sewage tank for a new system shall not be buried more than 4 feet from the final grade unless specifically approved by the Department.

K. Bedroom Addition

A bedroom addition requires the submission of a compliance inspection and septic design for the addition of the bedroom. The owner is required to sign an agreement that within 1 year from the date of issuance of a bedroom addition permit; that the owner will upgrade, repair, replace or abandon an existing system. If the following conditions apply the owner is allowed 5 years to upgrade, repair, replace or abandon an existing system: (Ord. #436, adopted 4/7/09)

1. The Department of Development or local building inspector issues a permit to add a bedroom;
2. A SSTS inspection is triggered by a bedroom addition permit request;
3. The existing system was installed between May 27, 1989 and January 3, 1996;
4. The SSTS does not comply with Minn. R. 7080.1500, subp. 4(b).;
5. The SSTS is not determined to be an imminent threat to public health or safety in accordance with Minn. R. 7080.1500, subp. 4(a).

L. Reporting

Type III, Type IV, Type V and other establishments that are required to install water meters or event counters shall take readings everyday for the first 30 days that the system is in operation and once a month thereafter. The readings shall be submitted to the County on the form provided by the County by the following January 30th. After reviewing the readings the Department may request additional readings to be conducted or indicate that additional readings are no longer required to be submitted. Failure to submit the required readings shall be deemed a violation of the management plan. An agreement signed by the applicant shall be submitted with the application acknowledging these requirements. (Ord. #436, adopted 4/7/09)

M. Requirements

The following sections are in Minn. R. Ch. 7080 and are not more restrictive but are highlighted due to their importance.

1. SSTS in Floodplains

a. SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain should be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minn. R. 7080.2270. If an SSTS is built in the flood fringe, the bottom of the distribution medium shall be at least as high as 10 year flood elevation. If the SSTS is a mound, the bottom of the distribution medium shall be at least ½ foot above the 10 year flood elevation.

b. If the 10 year flood elevation is not available, the best hydrological information shall be used in determining the elevation of the bottom of the distribution medium. The best available hydrological information shall include, but is not limited to the following:

1. Flood elevations provided from the Benton County Highway Department;
2. Flood elevations provided from the Minnesota Department of Transportation;
3. A flood elevation provided by a certified land surveyor; or
4. A geological topographic/contour map.

2. Class V Injection Wells

All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the 40 C.F.R. 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency as described in 40 C.F.R 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

9.6.8 OPERATING PERMITS

A. SSTS Requiring an Operating Permit

1. An operating permit shall be required of all owners of new holding tanks, Type IV systems, Type V systems, lodging (excluding bed and breakfast facilities unless served of a Type IV or V system), food and beverage facilities or MSTs. Sewage shall not be discharged to a holding tank or MSTs until the Department of Development certifies that the MSTs or holding tank was installed in conformance with the approved plans, receives the final record drawings of the MSTs, and a valid operating permit is issued to the owner. (Ord. #436, adopted 4/7/09)
2. The Department shall review the record drawings, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the Department. If the submitted documents fulfill the requirements, the Department shall issue an operating permit in accordance with Minn. Stat. §15.99.
3. The Department may not amend an existing permit to reflect changes in this

Ordinance until such time the permit term has expired and is renewed unless an amendment is necessary to eliminate an imminent threat to public health or safety.

4. The Department may suspend or revoke any operating permit issued under this section for any false statements or misrepresentations of facts on which the operating permit was issued or if the owner fails to meet the requirements of the operating permit. Notice of suspension revocation and the reasons for revocation shall be conveyed in writing to the owner. If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank, or abandoned in accordance with Section 9.6.14. At the Department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.
 5. Systems found to be out of compliance with the operating permit shall be required to bring the SSTS into compliance within 30 days.
- B. Compliance Monitoring Type IV Systems, Type V Systems, Food and Beverage Facilities or MSTS
1. Type IV Systems, Type V Systems, MSTS, food and beverage facilities shall require monitoring performed by a licensed inspection business or licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.
 2. A report shall be submitted to the Department on a form provided by the Department on or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described below:
 - a. Owner name and address
 - b. Operating permit number
 - c. Average daily flow since last compliance monitoring report
 - d. Description of type of maintenance and date performed
 - e. Description of samples taken (if required), analytical laboratory used, and results of analyses
 - f. Demonstrate compliance with Minn. R. 7080.2350.
 - g. The annual test from the effluent (before discharge into the soil treatment system) for biochemical oxygen demand, total suspended solids, and oil and grease concentrations.
 - h. Problems noted with the system and actions proposed or taken to correct them
 - i. Name, signature, license and license number of the licensed professional who performed the work
 3. Type IV systems, Type V systems, food and beverage facilities or MSTS operating permits shall expire on January 30th. The owner of the operating permit shall apply for renewal of their operating permit by December 30th. The operating permit renewal period shall be determined by the County. (Ord. #436, adopted 4/7/09)
- C. Holding Tanks

Owners of holding tanks shall provide to the Department of Development a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge. This requirement is waived if the owner is a farmer who is exempt from licensing. The owner of the operating permit shall apply for renewal of their operating permit by December 30th. (Ord. #436, adopted 4/7/09)

9.6.9 MANAGEMENT PLANS

A. SSTS Requiring Management Plans

Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the Department with the septic permit application for review and approval. The purpose of management plans is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required. The plan is to be provided by the certified designer to the system owner when the treatment system is commissioned. The Department shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification. (Ord. #436, adopted 4/7/09)

B. Required Contents of a Management Plan

Management plans shall include:

1. Signature of the designer and owner detailing that the plan has been reviewed and understood by both parties.
2. Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;
3. Monitoring requirements;
4. Maintenance requirements including maintenance procedures and a schedule for routine maintenance;
5. Statement that the owner is required to notify the Department when the management plan requirements are not being met;
6. Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence.
7. Require pumping the septic tank(s) at least once every three years and retention of receipts to demonstrate compliance.

C. Requirements for Systems not Operated under a Management Plan

SSTS that are not operated under a management plan or operating permit must inspect treatment tanks and remove solids at least every three years and retain the receipts to demonstrate compliance.

9.6.10 SOIL VERIFICATION

A. Soil Borings

1. Prior to approval of an administrative land split or final plat the Department of Development shall verify the soil borings submitted are compliant with Minn. R. Chs. 7080 through 7083.
2. Prior to issuance of the certificate of compliance for a new or replacement

SSTS the County shall verify the soil borings submitted are compliant with Minn. R. Chs. 7080 through 7083.

B. Dispute Resolution

1. In the event of a dispute between two designers on whether the soil or design meets the minimum requirements of the Ordinance the County shall review the site, upon request, and make the final determination.

2. In the event that a designer and the County have a dispute related to the design or soils meeting the minimum requirements of the Ordinance the County shall meet with the designer on-site to review the soils and design. If the dispute is unresolved the County and designer shall request a mutually agreeable soil scientist to review the site. The applicant shall provide a deposit in an amount to be determined by the County to cover the cost of the soil scientist and County review. Both parties shall agree in writing that the soil scientist findings shall be final. If the scientist determines the County correctly interpreted the soils the deposit will be retained and used to pay the scientist and County, with any extra money refunded to the applicant. If the soil scientist determines the designer was correct the deposit shall be refunded and the County will pay for the cost of the soil scientist review. If soils are reviewed with the soil scientist that was not previously reviewed by the County the County shall retain the deposit. All reviews with the soil scientist shall be conducted in a pit that is a minimum of 4 feet by 4 feet with a depth of at least 3 feet below the bottom of the proposed system or until bedrock or the water table, whichever is less.

9.6.11 COMPLIANCE INSPECTIONS CONDUCTED BY THE COUNTY

A. Department Responsibility

The Department shall inspect all newly constructed SSTS in Benton County.

All inspection requests shall conform to the following:

1. All required permit fees shall be paid for prior to issuing the permit or certificate of compliance;
2. The installation and construction of the SSTS shall be in accordance with the permit requirements and application design.
3. The applicant shall notify the Department prior to the completion and covering of the SSTS for an inspection. If any SSTS component is covered before being inspected and approved by the Department, it shall be uncovered upon the direction of the Department;
4. It shall be the duty of the permittee to notify the Department on the workday preceding the day inspection is desired;
5. Proposals to alter the permitted construction shall be reviewed and the proposed change accepted by the Department prior to construction.
6. Inspections shall be conducted at least once during the construction of the SSTS at such time as to assure that the system has been constructed per permit requirements.
7. A designated registered professional shall be on site during the SSTS compliance inspection by the Department.

8. The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system.
- B. **As-Builts Requirements**

If the applicant provides proper notice as described above and the Department does not appear for an inspection within 24 hours after the set time, the applicant may complete the installation. The applicant shall then file a signed as-built packet provided by the Department. The as-built packet shall be submitted to the Department within five business days of the date of the SSTS installation. The as-built shall include a certified statement that the work was installed in accordance with submitted design and permit conditions and that it was free from defects. Failure to submit the as-built packet within the timeframe specified on it shall result in an as-built late fee to be paid by the installer or applicant.
- C. **New Construction or Replacement SSTS**
 1. Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minn. R. Chs. 7080 through 7083. SSTS found to be an imminent threat to public health or safety must be repaired or replaced within 120 days. SSTS that are determined to have operation or monitoring deficiencies must within 30 days be maintained, monitored or otherwise managed according to the operating permit or management plan. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Department's requirements.
 2. The certificate of compliance must include a certified statement by qualified employee who conducted the inspection that the SSTS is or is not in compliance with the Ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those Ordinance provisions with which the SSTS does not comply.
 3. No SSTS shall be placed into operation until a valid certificated of compliance has been issued.
- D. **SSTS Inspection Reports**

A certificate of compliance or notice of noncompliance shall be prepared by the Department following all SSTS inspections or from the review of submitted as-built plans.

 1. A certificate of compliance or notice of noncompliance shall include a signed statement by the Department identifying the type of SSTS inspected and whether the SSTS is in compliance with Minn. R. 7080.1500.
 2. A copy of the certificate of Compliance or notice of noncompliance shall be provided to the property owner within 15 days of the compliance inspection and a copy kept on file in the Department.
 3. A certificate of compliance for a new SSTS is valid for 5 years from the date of issuance unless the Department finds evidence of an imminent threat to public health or safety.
 4. The plumbing code shall be administered by the local building code official as it relates the hook-up of the dwelling to the septic tank or system. Verification that the septic system hook-up is compliant with the plumbing

code shall be provided by the building official prior to issuance of a certificate of compliance.

E. Failing Systems

The County shall inspect an existing SSTS if there is evidence of a failing system. The County shall issue a notice of noncompliance if the County witnesses evidence of the failing system. The system shall be upgraded in accordance with Section 9.6.13.

9.6.12 COMPLIANCE INSPECTION CONDUCTED BY A PRIVATE INSPECTOR

A. Criteria for Systems Constructed Before April 1, 1996

SSTS built before April 1, 1996, must have at least 2 feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock. If the SSTS is located within an area designated as shoreland, wellhead protection or serves a food, beverage or lodging establishment the system shall be required to meet the requirements of Section 9.6.11(b).

B. Criteria for Systems Constructed After March 31, 1996, or in a Designated Area

SSTS built after March 31, 1996, shall have a 3 foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. SSTS located in the shoreland, wellhead protection or serving a food, beverage, or lodging establishment regardless of the year constructed shall have a three-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Existing systems that have no more than a 15 percent reduction in this separation distance (a separation distance no less than 30.6 inches) to account for settling of sand may be considered compliant under this Ordinance if the inspector states there is evidence of settling, measurement or interpretation of the restrictive layer. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil.

C. Compliance Inspection Requirements

1. Compliance inspections shall be required when any of the following conditions occur:

- a. When a construction permit is required to repair, modify, or upgrade an existing system;
- b. Anytime there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system;
- c. Anytime there is a change in use of the property being served by an existing SSTS which may impact the performance of the system;
- d. Submission of a variance application for an affected parcel;
- e. Submission of a conditional use permit for an affected parcel
- f. Submission of a land use permit in which a dwelling or other establishment is removed and a new dwelling or other establishment is proposed.
- g. At anytime as required by this Ordinance or the Department deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.

2. Compliance inspections of existing SSTS shall be reported on the inspection

report forms provided by PCA. The following conditions must be assessed, or verified:

- a. Water tightness assessment of all treatment tanks including a leakage report;
- b. Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including vertical separation verification report unless the vertical separation has been verified by the County or another independent designer/inspector.
- c. Compliance with the management plan or operating permit if applicable.
 3. The entire system is to be evaluated for its compliance status. In evaluating the vertical separation of a soil treatment system found to be in compliance, the compliance inspector shall provide:
 - a. The elevation of the bottom of the rock bed;
 - b. The elevation of the depth to the restricting layer, if applicable, measured outside of the soil treatment system in an area of similar soil; and
 - c. A detailed sketch drawn to scale or dimension showing the location of the SSTS, the soil boring(s), and the bottom of the rock bed in relation to a referenced benchmark.
- D. Certificate of Compliance for Shoreland Areas

A certificate of compliance on the affected property shall be provided to the Department as part of an application request in the shoreland for a:

 1. Land Use Permit;
 2. Variance, unless a variance is needed for the septic system or a new dwelling is proposed and the existing system will be required to be upgraded or replaced in which case a compliance inspection will be adequate;
 3. Conditional Use Permit
- F. Point of Sale Certification
 1. No owner or other person acting with legal authority on behalf of an owner of a tract of land upon which a dwelling is located, or a tract of land upon which a structure is required to have an individual sewage treatment system is located, shall convey to another party said tract of land, unless all of the following requirements are met:
 - a. The seller shall provide a compliance inspection or a Benton County sewage treatment system inspection to the buyer at or before the closing date. The compliance inspection shall be submitted to the County with the property transfer. If the seller does not provide the compliance inspection the buyer shall be responsible to proving the compliance inspection to the County within 30 days of the property transaction. A valid compliance inspection is an inspection, conducted by an MPCA Designated registered professional, which is three years old or less indicating that the system is in compliance or is out of compliance. A valid Benton County sewage treatment system inspection is an inspection issued by the Department that is 5 years old or less. A compliance inspection shall not be valid if the Department finds evidence of an imminent health threat to public health and safety.
 - b. A Benton County sewage treatment system property transfer form shall be signed by both the buyer(s) and seller(s) and filed with the Benton County Auditor at the time of sale or transfer of the property.

c. Failure to submit a compliance inspection for a property transfer shall result in all future permits for the site to be denied until a compliance form has been submitted.

2. Exemptions

A compliance inspection or a Benton County sewage treatment system inspection is not required to be filed with the Auditor's office at the time of sale or transfer of property if any of the following conditions exist:

a. The property to be transferred has no structures usable for human habitations;

b. The property to be transferred has no buildings with plumbing fixtures.

c. A public sewer system, a community sewer system or a central sewer system services the dwelling(s) on the property to be transferred;

d. The sale of land is exempt from the requirements that a certificate of real estate value (CRV) be filed with the County Auditor's office as described in Minn. Stat. §272.115, subd.1; or

f. The sale or transfer completes a contract for deed or purchase agreement entered into prior to June 18, 2002. This subsection applies only to the original vendor and vendee on such a contract.

g. The transfer is a foreclosure or tax forfeiture.

3. Winter Transfers

If the sale or transfer of property occurs during the winter months of November 15th through April 15th, the buyer shall complete the compliance inspection, if necessary, by the following June 1st. The buyer shall ultimately be held responsible by the County if the septic system is noncompliant and not brought into compliance within the timeframe provided by the Department or if a compliance inspection has not been completed.

G. Inspection Forms

Upon completion of a compliance inspection of an existing SSTS, the inspector shall submit a certificate of compliance or a notice of noncompliance to the Department and the property owner within 15 days of the date of the compliance inspection. In completing the PCA compliance inspection form for existing sewage treatment systems, the compliance inspector shall complete the entire form, including, but not limited to the following information:

1. The parcel identification number of the property;
2. The reason why the compliance inspection is being performed; and
3. If necessary, the soil boring information which includes the depth of each horizon, the Munsell soil color and the texture of the soil.
4. If any of the above required information is not provided, the compliance inspection report will be considered incomplete.

9.6.13 NOTICE OF NONCOMPLIANCE

A. If an existing SSTS is found to be out of compliance with this Ordinance, the property owner shall complete the following requirements, as applicable:

1. The owner of property on which a septic system is found to be out of compliance shall within 30 days after receipt of a notice of noncompliance

- submit a completed SSTS design using Department application forms and obtain a sewage treatment system permit from the Department.
2. An SSTS that is determined to be noncompliant shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 12 months of receipt of a notice of noncompliance, unless it is considered an imminent threat to public health or safety.
 3. An SSTS that is determined to be an imminent threat to public health or safety in accordance with Minn. R. 7080.1500 Subp. (4)(a), shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within 120 days of receipt of a notice of noncompliance.
 4. An owner/operator with an SSTS found to be out of compliance with its operating permit, management plan or monitoring plan shall bring the system into compliance with the plan within 30 days of the notice of noncompliance.

9.6.14 ABANDONMENT CERTIFICATION

- A. Purpose

The purpose of the system abandonment certification is to ensure that a treatment system no longer in service is abandoned in a manner that protects public health, safety and water quality.
- B. Abandonment Requirements
 1. Whenever the use of a SSTS or any system component is discontinued as the result of a system repair, modification, replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose under this Ordinance shall be prohibited.
 2. Continued use of a treatment tank where the tank is to become an integral part of a replacement system or a sanitary sewer system requires the prior written approval of the Department.
 3. An owner of an SSTS must abandon all components of the discontinued treatment system within 30 days of discontinuance.
 4. Abandonment shall be completed in accordance with Minn. R. 7080.2500.
 5. A report of abandonment certified by the licensed installation business shall be submitted to the Department. The report shall include:
 - a. Owner's name and contact information
 - b. Property address
 - c. System construction permit and operating permit
 - d. The reason(s) for abandonment
 - e. A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals, and receipts to document proper disposal.
- C. Abandonment Certificate

Upon receipt of an abandonment report and determination that the SSTS has been abandoned according to the requirements of this Ordinance, the Department shall issue an abandonment certificate. If the abandonment is not completed according the requirements of this Ordinance the County shall notify

the owner of the SSTS of the deficiencies, which shall be corrected within 30 days of the notice.

9.6.15

VARIANCES

A.

Variance Requests

A property owner may request a variance pursuant to county policies and procedures as stated in Section 11.5 of the Development Code. Variances that pertain to the standards and requirements of the State of Minnesota must be approved by the affected state agency pursuant to the requirements of the state agency. (Ord. #436, adopted 4/7/09)

B.

Board of Adjustment Authority

The Board of Adjustment shall have the authority only to consider variances to horizontal setbacks from property lines, ordinary high water level, rights-of-way, structures, or buildings. The Board of Adjustment may also grant variances to permit a Type II-V system for new construction or creation of a new lot. Variance requests to deviate from the design flow determination procedures in Minn. R. 7081.0110 if the deviation reduces the average daily estimated flow from greater than 10,000 gallons per day to less than 10,000 gallons per day or to provisions in Minn. R. 7080.2150, subp. 2 and 7081.0080, subp. 2 through 5 regarding the vertical separation required beneath the treatment and dispersal soil system and saturated soil or bedrock from the required three feet of unsaturated soil material (except as provided in Minn. R. 7080.1500 subp. 4 (d)) must be approved by PCA. Variances to wells and water supply lines must be approved by the Minnesota Department of Health.

9.6.16

ENFORCEMENT

A.

Cause to Issue a Notice of Violation

Any person, firm, agent, or corporation who violates any of the provisions of this Ordinance, or who fails, neglects, or refuses to comply with the provisions of this Ordinance, including violations of conditions and safeguards, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as defined by Minnesota State Law. Each day that a violation exists shall constitute a separate offense. In the event of a violation of this Ordinance, in addition to other remedies, the County Attorney may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations. The Department shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, "property" does not include a residence or private building. No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the Department shall be deemed a separate and distinct offense. (Ord. #436, adopted 4/7/09)

B.

Notice of Violation

The Department shall serve, in person or by mail, a notice of violation to any

person determined to be violating provisions of this Ordinance. The notice of violation shall contain:

1. A statement documenting the findings of fact determined through observations, inspections, or investigations;
2. A list of specific violation(s) of this Ordinance;
3. Specific requirements for correction or removal of the specified violation(s);
4. A mandatory time schedule for correction, removal and compliance with this Ordinance.

C. Cease and Desist Orders

Cease and desist orders may be issued when the Department has probable cause that an activity regulated by this or any other County Ordinance is being or has been conducted without a permit or in violation of a permit. When work has been stopped by a cease and desist order, it shall not be resumed until the reason for the work stoppage has been completely satisfied, any administrative fees paid, and the cease and desist order lifted.

D. Costs and Reimbursements

If the Department is required to remove or abate an imminent threat to public health or safety, the Department may recover the costs including, attorney fees, incurred in removal or abatement in a civil action, or at the discretion of the County Board, the cost of an enforcement action under this Ordinance may be assessed and charged against the real property on which the public health nuisance was located. The County Auditor may extend the cost as assessed and charged on the tax roll against said real property.

APPENDIX B. FIELD WINDBREAK

(Benton County Code Section 9.12)

9.12

Field Windbreak

No person shall remove or destroy any field windbreak or pine plantation, nor remove trees or stumps remaining after a field windbreak or pine plantation is destroyed by natural causes or any cause, in any zoning district of the county without first making an application for and obtaining a Conditional Use Permit. No such permit shall be issued unless the land owner has entered into a contractual restrictive covenant providing for the implementation of an alternate erosion control plan meeting the standards and specifications contained in the Benton Soil and Water Conservation District Technical Guide, of which a copy is filed with the Benton County SCS District Office said covenant to run with the land. The restrictive covenant must be approved by the County Board before a permit may be issued and must be recorded in the Office of the County Recorder. No permit shall be required for the normal harvest of trees planted for harvesting, for ornamental or decorative purposes, or for the normal and necessary thinning of trees in a field windbreak or pine plantation.

APPENDIX C. FEEDLOTS/WASTE STORAGE

(Benton County Code Section 9.14)

9.14 LARGE SCALE FEEDLOTS AND LIVESTOCK WASTE STORAGE FACILITIES (Ord. #292, adopted 5/19/98)

9.14.1 Definitions: The following terms, as used in sections 9.14.2 through 9.14.5, shall have the meaning given in this section.

Non-Feedlot Residence: Any dwelling that is not located on the same farmstead as the feedlot.

Contiguous Parcel: A parcel, or abutting parcels, upon which the feedlot is located and which is owned by the feedlot permits applicant.

Tier I Feedlot: An area or building, as described in section 3.59, intended and designed for the feeding, breeding, raising or holding of between 25 to 500 animal units.

Tier II Feedlot: An area or building, as described in section 3.59, intended and designed for the feeding, breeding, raising or holding of between 501 and 1,500 animal units.

Tier III Feedlot: An area or building, as described in section 3.59, intended and designed for the feeding, breeding, raising or holding of between 1,501 and 2,500 animal units.

9.14.2 Permitted Uses

- A. Tier I feedlots shall be a permitted use in areas zoned A-1 or A-2. Conditional use permits for feedlots may only be granted if the following requirements are met:
 - 1. The applicant must obtain a valid MPCA certificate of compliance, as defined in Minnesota Rules Part 7020.0300, pertaining to the feedlot site.
 - 2. The feedlot must be located in compliance with the minimum setbacks and minimum parcel size restrictions described in Section 9.14.4.
 - 3. The feedlot must meet the criteria of Section 11.6.
- B. Livestock waste storage facilities shall be conditions uses in areas zoned A-1. Conditional use permits for waste storage facilities may only be granted if the following requirements are met:
 - 1. The applicant must have obtained a valid MPCA feedlot permit.
 - 2. The waste storage facility must comply with all applicable state requirements for soil, water and air pollution.
 - 3. The facility shall not be located within six hundred sixty (660) feet of any residence other than the farmstead residence at which the storage facility is located.
 - 4. The facility must be at least 200 feet from a road right-of-way.

9.14.4 Minimum Setbacks and Parcel Size

Number of Animal Units (au) Permitted:	Tier I	Tier II	Tier III
	25-500 au	501-1,500 au	1,501-2,500 au

Non-Feedlot Residence	660 feet	990 feet	1,320 feet
Road R-O-W	65 feet	125 feet	200 feet
Incorporated City with a population over 500	1,320 feet	2,640 feet	3,960 feet
Lake	1,000 feet	1,000 feet	1,000 feet
River, Creek, Stream or Water course	300 feet	300 feet	300 feet
Property Line	80 feet	100 feet	200 feet
Existing Feedlot	660 feet	660 feet	660 feet
Minimum Contiguous Parcel	35 acres	75 acres	115 acres

9.14.5 Feedlot Expansion

A land use permit or conditional use permit obtained for a Tier I, Tier II, or Tier III Feedlot shall authorize the feedlot owner/operator to maintain any number of animal units within the allowable range for that tier. The number of animal units contained in the feedlot must not exceed the maximum allowed in the permitted tier. If the number of animal units contained in the feedlot at any time exceed, or is anticipated to exceed, the number allowed in the permitted tier, the property owner must obtain a new or amended conditional use permit of the appropriate higher tier.

9.14.6 Residential Setbacks

Non-feedlot residences must meet the minimum setbacks from a feedlot set forth in Section 9.14.4.